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# MONTANA LEGISLATIVE HISTORY

Chapter 470 1993

Bill H 245 S _____ Original bill & history ✓ C

| H. Committee on Business & Economic Development | | | S. Committee on Judiciary | | |
|---|---|---|---|---|---|
| Hearing Date(s) | Feb 05 | ✓ C | Hearing Date(s) | Mar 19 | ✓ C |
| | Feb 15 | ✓ C | | Mar 26 | ✓ C |
| | | C | | | C |
| | | C | | | C |
| Date Out | Feb 16 | ✓ C | | Mar 29 | ✓ C |

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Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

House BILL NO. 245

INTRODUCED BY Kadas Hamilton
Stanford Bunkelman Dowell Peterson

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING FIVE EXCLUSIVE GROUNDS FOR LANDLORDS' TERMINATION OF RENTAL AGREEMENTS WITH TENANTS WHO OWN MOBILE HOMES OR RENT SPACE IN MOBILE HOME PARKS; AND AMENDING SECTION 70-24-103, MCA."

WHEREAS, Montana residents currently face a housing crisis that includes a lack of affordable housing and a lack of available mobile home park spaces; and

WHEREAS, mobile homes are not "mobile" without substantial moving costs and substantial damage to the mobile homes; and

WHEREAS, under 70-24-441 landlords of mobile home parks may evict tenants who rent space in mobile home parks for any reason; and

WHEREAS, mobile home owners who rent in mobile home parks often have little or no equity in their mobile homes; and

WHEREAS, upon failure to pay rent, mobile home owners who rent space in mobile home parks may be forced to sell their mobile homes at a fraction of their costs and within an unreasonable amount of time (30 days pursuant to 70-24-441) in order to make rental payments.



LC 0339/01

THEREFORE, the Legislature of the State of Montana finds it necessary to define justifiable and reasonable grounds on which landlords may evict mobile home owners who rent space in mobile home parks.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 70-24-103, MCA, is amended to read:

"**70-24-103. General definitions.** Subject to additional definitions contained in subsequent sections and unless the context otherwise requires, in this chapter the following definitions apply:

(1) "Action" includes recoupment, counterclaim, setoff suit in equity, and any other proceeding in which rights are determined, including an action for possession.

(2) "Court" means the appropriate district court or the appropriate justice's court.

(3) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by a person who maintains a household or by two or more persons who maintain a common household. "Dwelling unit", in the case of a person who rents space in a mobile home park but does not rent the mobile home, means the space rented and not the mobile home itself.

(4) "Good faith" means honesty in fact in the conduct of the transaction concerned.



HB 245
INTRODUCED BILL

(5) "Landlord" means the owner, lessor, or sublessor of:

(a) the dwelling unit or the building of which it is a part ~~and~~ ;

(b) a mobile home park; or

(c) ~~and also means~~ a manager of the premises who fails to disclose ~~his~~ the managerial position.

(6) "Mobile home owner" means the owner of a manufactured mobile home dwelling unit entitled under a rental agreement to occupy a mobile home park space in a mobile home park.

(7) "Mobile home park" means a trailer court as defined in 50-52-101.

~~(6)~~(8) "Organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, and any other legal or commercial entity.

~~(7)~~(9) "Owner" means one or more persons, jointly or severally, in whom is vested all or part of:

(a) the legal title to property; or

(b) the beneficial ownership and a right to present use and enjoyment of the premises, including a mortgagee in possession.

~~(8)~~(10) "Person" includes an individual or organization.





~~(9)~~(11) "Premises" means a dwelling unit and the structure of which it is a part, the facilities and appurtenances ~~therein~~ in the structure, and the grounds, areas, and facilities held out for the use of tenants generally or promised for the use of a tenant.

~~(10)~~(12) "Rent" means all payments to be made to the landlord under the rental agreement.

~~(11)~~(13) "Rental agreement" means all agreements, written or oral, and valid rules adopted under 70-24-311 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

~~(12)~~(14) "Roomer" means a person occupying a dwelling unit that does not include a toilet, a bathtub or a shower, a refrigerator, a stove, or a kitchen sink, all of which are provided by the landlord and one or more of these facilities are used in common by occupants in the structure.

~~(13)~~(15) "Single family residence" means a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it is a single family residence if it has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with another dwelling unit.

~~(14)~~(16) "Tenant" means a person entitled under a rental

agreement to occupy a dwelling unit to the exclusion of others."

NEW SECTION. **Section 2. Mobile home parks -- grounds for termination of rental agreement.** (1) A landlord of a mobile home park may terminate a rental agreement only by following the procedure set forth in 70-24-422 and only for one or more of the following reasons:

(a) nonpayment of rent, as provided in subsection (2);

(b) violation of a mobile home park rule as provided in subsection (3);

(c) disorderly conduct that results in disruption of the rights of others to the peaceful enjoyment and use of the premises, endangers other residents or mobile home park personnel, or causes substantial damage to the mobile home park premises;

(d) conviction of the mobile home owner or a tenant of the mobile home owner of a violation of a federal or state law or local ordinance or the landlord's documentation by a preponderance of the evidence of a violation when the violation is detrimental to the health, safety, or welfare of other residents or the landlord of the mobile home park; or

(e) changes in the use of the land if the requirements of subsection (4) are met.

(2) (a) A landlord of a mobile home park may terminate





the rental agreement of a tenant who has received more than three written notices of late rent payments within a 12-month period. The notices are subject to the following conditions:

(i) only one late notice per month may be included when calculating the total of late notices within a 12-month period;

(ii) late payment or nonpayment of fees or late charges may not be considered a late rent payment; and

(iii) a payment must be attributed first to delinquent rent payments, then to current rent payments, and finally to fees, charges, or late fees.

(b) On the date a tenant receives a third late rent payment notice within a 12-month period, the tenant is placed on probation for 6 months. If the tenant pays rent late at any time during the probationary period, the landlord may terminate the rental agreement.

(3) (a) A landlord of a mobile home park may terminate the rental agreement of a tenant who has violated a mobile home park rule only if:

(i) the rule is not unfair, unreasonable, or unconscionable;

(ii) the rule was adopted in accordance with 70-24-311;

(iii) the tenant had at least 60 days' notice of the rule before the alleged violation took place; and

(iv) the rule violation is likely to continue or recur and the continuing violation or recurrence would have a significant adverse impact on the mobile home park or its residents.

(b) The landlord shall give the mobile home owner and a tenant of the mobile home owner written notice of the alleged rule violation and allow the mobile home owner or the tenant of the mobile home owner 15 days to comply with the rule. After 15 days, if the owner or tenant has not complied with the rule, the landlord may terminate the rental agreement pursuant to 70-24-422.

(c) If a mobile home owner or a tenant of the mobile home owner has been given a written notice of an alleged violation of the same rule on three or more occasions within a 12-month period, written notice is not required for a subsequent violation of the same rule and termination of the rental agreement may proceed under the guidelines of 70-24-422. Only one notice per month may be given.

(4) If a landlord plans to change the use of all or part of the land composing the mobile home park from mobile home lot rentals to some other use, each affected mobile home owner must receive notice from the landlord as follows:

(a) The landlord shall give the mobile home owner and a tenant of the mobile home owner at least 15 days' written notice that the landlord will be appearing before a unit of





local government to request permits for a change of use of the mobile home park.

(b) After all required permits requesting a change of use have been approved by the unit of local government, the landlord shall give the mobile home owner and a tenant of the mobile home owner 6 months' written notice of termination of tenancy. If the change of use does not require local government permits, the landlord shall give the written notice at least 6 months prior to the change of use. In the notice, the landlord shall disclose and describe in detail the nature of the change of use.

(c) Prior to entering a rental agreement during the 6-month notice period referred to in subsection (4)(b), the landlord shall give each prospective mobile home owner and tenant of the mobile home owner written notice that the landlord is requesting a change in use before a unit of local government or that a change in use has been approved.

(5) A tenant may challenge by court action the termination of a rental agreement under this section. The court shall determine if the landlord has established any ground for termination of a rental agreement under this section. Termination may not be ordered if the court determines that the landlord's conduct is in retaliation for the tenant's conduct within the meaning of 70-24-431.

NEW SECTION. **Section 3.** Tenant's right to sell mobile

**home upon termination of tenancy.** (1) When a rental agreement is terminated pursuant to [section 2] for any reason other than nonpayment of rent, a mobile home owner may leave the mobile home in the park for up to 120 days for the purpose of selling the mobile home. No one may reside in the mobile home during the 120-day period. The mobile home owner is responsible for the payment of rent during the 120-day period and shall maintain the mobile home space. The landlord has a lien on the mobile home to the extent rental payments are not made or maintenance is not performed.

(2) At the end of the 120-day period, the landlord may remove the mobile home from the lot after giving 5 days' written notice of intent to move the mobile home and may charge the mobile home owner with the costs associated with the move.

NEW SECTION. **Section 4.** Codification instruction. [Sections 2 and 3] are intended to be codified as an integral part of Title 70, chapter 24, and the provisions of Title 70, chapter 24, apply to [sections 2 and 3].

NEW SECTION. **Section 5.** Coordination Instruction. If ___ Bill No. ____ [LC 872] is passed and approved, the reference in [section 2(3)] to 70-24-311 must be changed to the corresponding section in ____ Bill No.____ [LC 872].

-End-

| | | | |
|---|---|---|---|
| 1/19 | FISCAL NOTE REQUESTED | | |
| 1/22 | FISCAL NOTE RECEIVED | | |
| 1/22 | FISCAL NOTE PRINTED | | |
| 1/27 | HEARING | | |
| 1/27 | TABLED IN COMMITTEE | | |

HB 244 INTRODUCED BY SCHWINDEN

GENERALLY REVISE TEACHERS' RETIREMENT LAWS

BY REQUEST OF TEACHERS' RETIREMENT BOARD

| | | | |
|---|---|---|---|
| 1/19 | INTRODUCED | | |
| 1/19 | REFERRED TO STATE ADMINISTRATION | | |
| 1/19 | FIRST READING | | |
| 1/19 | FISCAL NOTE REQUESTED | | |
| 1/25 | FISCAL NOTE RECEIVED | | |
| 1/25 | FISCAL NOTE PRINTED | | |
| 2/01 | HEARING | | |
| 2/02 | COMMITTEE REPORT—BILL PASSED | | |
| 2/04 | 2ND READING PASSED | 90 | 7 |
| 2/06 | 3RD READING PASSED | 91 | 6 |
| | TRANSMITTED TO SENATE | | |
| 2/09 | FIRST READING | | |
| 2/09 | REFERRED TO STATE ADMINISTRATION | | |
| 3/04 | HEARING | | |
| 3/04 | COMMITTEE REPORT—BILL CONCURRED | | |
| 3/06 | 2ND READING CONCURRED | 46 | 0 |
| 3/08 | 3RD READING CONCURRED | 48 | 0 |
| | RETURNED TO HOUSE | | |
| 3/21 | SIGNED BY SPEAKER | | |
| 3/23 | SIGNED BY PRESIDENT | | |
| 3/25 | TRANSMITTED TO GOVERNOR | | |
| 3/30 | SIGNED BY GOVERNOR | | |
| | CHAPTER NUMBER 226 | | |
| | EFFECTIVE DATE: 03/30/93 | | |

HB 245 INTRODUCED BY KADAS, ET AL.

ESTABLISH GROUNDS FOR TERMINATION OF MOBILE HOME TENANCY

| | | | |
|---|---|---|---|
| 1/19 | INTRODUCED | | |
| 1/19 | REFERRED TO JUDICIARY | | |
| 1/19 | FIRST READING | | |
| 1/20 | REREFERRED TO BUSINESS & ECONOMIC DEVELOPMENT | | |
| 2/05 | HEARING | | |
| 2/16 | COMMITTEE REPORT—BILL PASSED AS AMENDED | | |
| 2/18 | 2ND READING PASSED AS AMENDED | 79 | 18 |
| 2/20 | 3RD READING PASSED | 78 | 20 |
| | TRANSMITTED TO SENATE | | |
| 2/22 | FIRST READING | | |
| 2/22 | REFERRED TO BUSINESS & INDUSTRY | | |
| 2/23 | REREFERRED TO JUDICIARY | | |
| 3/19 | HEARING | | |
| 3/27 | COMMITTEE REPORT—BILL CONCURRED AS AMENDED | | |
| 3/30 | 2ND READING CONCURRED AS AMENDED | 41 | 8 |
| 3/31 | 3RD READING CONCURRED | 39 | 10 |
| | RETURNED TO HOUSE WITH AMENDMENTS | | |
| 4/02 | 2ND READING AMENDMENTS CONCURRED | 87 | 11 |
| 4/05 | 3RD READING AMENDMENTS CONCURRED | 85 | 15 |
| 4/13 | SIGNED BY SPEAKER | | |
| 4/14 | SIGNED BY PRESIDENT | | |

| | | | |
|---|---|---|---|
| 4/16 | TRANSMITTED TO GOVERNOR | | |
| 4/21 | SIGNED BY GOVERNOR | | |
| | CHAPTER NUMBER 470 | | |
| | EFFECTIVE DATE: 05/21/93 | | |

HB 246 INTRODUCED BY SIMON, ET AL.

ALLOW STATE SUPERINTENDENT TO HEAR CERTAIN SCHOOL CONTROVERSIES

| | | | |
|---|---|---|---|
| 1/19 | INTRODUCED | | |
| 1/19 | REFERRED TO EDUCATION & CULTURAL RESOURCES | | |
| 1/19 | FIRST READING | | |
| 1/19 | FISCAL NOTE REQUESTED | | |
| 1/25 | HEARING | | |
| 1/25 | FISCAL NOTE RECEIVED | | |
| 1/28 | FISCAL NOTE PRINTED | | |
| 1/29 | TABLED IN COMMITTEE | | |

HB 247 INTRODUCED BY EWER

REVISE DEADLINES FOR FILING REPORTS WITH COMMISSIONER OF POLITICAL PRACTICES

BY REQUEST OF OFFICE OF POLITICAL PRACTICES

| | | | |
|---|---|---|---|
| 1/19 | INTRODUCED | | |
| 1/19 | REFERRED TO STATE ADMINISTRATION | | |
| 1/19 | FIRST READING | | |
| 1/29 | HEARING | | |
| 1/30 | COMMITTEE REPORT—BILL PASSED | | |
| 2/02 | 2ND READING PASSED | 95 | 2 |
| 2/04 | 3RD READING PASSED | 94 | 2 |
| | TRANSMITTED TO SENATE | | |
| 2/08 | FIRST READING | | |
| 2/08 | REFERRED TO STATE ADMINISTRATION | | |
| 2/17 | HEARING | | |
| 3/02 | COMMITTEE REPORT—BILL CONCURRED | | |
| 3/03 | 2ND READING CONCURRED | 48 | 0 |
| 3/04 | 3RD READING CONCURRED | 49 | 0 |
| | RETURNED TO HOUSE | | |
| 3/21 | SIGNED BY SPEAKER | | |
| 3/23 | SIGNED BY PRESIDENT | | |
| 3/25 | TRANSMITTED TO GOVERNOR | | |
| 3/29 | SIGNED BY GOVERNOR | | |
| | CHAPTER NUMBER 208 | | |
| | EFFECTIVE DATE: 10/01/93 | | |

HB 248 INTRODUCED BY PECK, ET AL.

CLARIFY PROCEDURE FOR ADOPTING RULES WITH FINANCIAL IMPACT ON SCHOOLS

| | | | |
|---|---|---|---|
| 1/19 | INTRODUCED | | |
| 1/19 | REFERRED TO EDUCATION & CULTURAL RESOURCES | | |
| 1/19 | FIRST READING | | |
| 1/27 | HEARING | | |
| 2/08 | TABLED IN COMMITTEE | | |

HB 249 INTRODUCED BY MOLNAR, ET AL.

PROHIBIT LEGISLATOR FROM RECEIVING OTHER PUBLIC COMPENSATION

| | | | |
|---|---|---|---|
| 1/19 | INTRODUCED | | |
| 1/19 | REFERRED TO EDUCATION & CULTURAL RESOURCES | | |

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

**Call to Order:** By **CHAIRMAN STEVE BENEDICT**, on February 5, 1993, at 9:00 A.M.

ROLL CALL

**Members Present:**
Rep. Steve Benedict, Chairman (R)
Rep. Sonny Hanson, Vice Chairman (R)
Rep. Bob Bachini (D)
Rep. Joe Barnett (R)
Rep. Ray Brandewie (R)
Rep. Vicki Cocchiarella (D)
Rep. Fritz Daily (D)
Rep. Tim Dowell (D)
Rep. Alvin Ellis (R)
Rep. Stella Jean Hansen (D)
Rep. Jack Herron (R)
Rep. Dick Knox (R)
Rep. Don Larson (D)
Rep. Norm Mills (R)
Rep. Bob Pavlovich (D)
Rep. Bruce Simon (R)
Rep. Carley Tuss (R)
Rep. Doug Wagner (R)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Paul Verdon, Legislative Council
Claudia Johnson, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**
Hearing: HB 245, HB 321 AND HB 422
Executive Action: None

HEARING ON HB 245

Opening Statement by Sponsor:

**REP. MIKE KADAS, House District 55, Missoula**, opened by explaining the background of HB 245. He said Montana has

approximately 110,000 citizens who live in mobile home courts and parks. HB 245 will only effect those who own their own home and rent the space on which that home is placed. He said people in this situation are placed at the whim of a landlord who determines if that home is to be moved or not. The moving costs of a mobile home is around $1,000, which these people have to come up with if they are evicted. Because of the high moving costs, HB 245 will offer some protection for the people that eviction may not be arbitrary, because there has to be clear and distinct reasons for eviction. He said there are a number of states that already have this in law in place. **REP. KADAS** said the difference of opinion on HB 245 between the proponents and opponents has been so dramatic that an additional set of amendments have been drafted to further restrict the bill in regard to the problems that the landlords had with the bill. **REP. KADAS** went through the bill section by section with the amendments so everyone could clearly identify the issues that are being proposed in the amendments. He distributed a copy of 70-24-441 MCA, which is currently used at this time for the eviction process. He said the current eviction process is left the way it presently is, but the way the process is to be used is changed. The new section 2 on page 5, is the main section that gives detail for termination of rental agreements. He said they tried to work out a bill that will deal with the issues that the proponents brought out and also deal in a fair manner in regard to the issues the landlords have. He said HB 245 deals with the five ways for reasons of eviction: 1) nonpayment of rent; 2) violation of the mobile home park rules; 3) disorderly conduct; 4) known illegal dealing of drugs; and 5) change in the use of the mobile home park, i.e., gravel pit. **EXHIBITS 1, 2 AND 3**

Proponents' Testimony:

**Bruce Hietala, Target Range Court, Missoula**, stated his reasons in support of HB 245. He distributed information called "People Fighting For A Good Cause" - Campaign '93. He said good cause will not result in increased litigation, but will reduce the need for litigation. He informed the committee they will be hearing from the landlords stating that the courts and parks are their private property and should not be regulated by law. He said it is a business and the landlords are not entitled to the same unregulated freedom enjoyed by a private homeowner.

**Klaus Sitte, Legal Services Attorney, Missoula**, said he helped the Montana Realtors Association draft the Montana Residential Landlord/Tenant Act (MRLTA) 17 years ago. He has worked on housing law and issues, research, written, and taught landlord/tenant law throughout the state. He said in the last several years he has been teaching the judges in the justice courts the laws. He said there hasn't been any support for the notion on the revision of the Montana Landlord/Tenant Law at any time produces more litigation. He said there have only been six Montana Supreme Court cases involving landlord/tenant law effecting tenants in a residential situation since the passage of

the MRLTA. He referred to the good cause exhibit regarding a letter from an attorney Jim O'Brien, in Missoula. **EXHIBIT 4**

**Bea Steen, Golden Estates, Helena**, said she is representing many of the tenants that were unable to attend the hearing. She asked the committee to support this legislation for the people who own their own mobile homes. She referred to the green sheet in exhibit 4 regarding the Helena Housing Authority. She said Montana needs to become the 29th state for good cause legislation. **EXHIBIT 4**

**Bob Crestenson, Leisure Trailer Court, Lolo**, said he has never received an eviction notice in the 12 years he has lived in a trailer court. He and his family joined a residents association to help solve some of the problems they have in the court where he is presently living. He was informed in front of other members of the association that he would receive an eviction notice for joining the association, which he did two hours later. He said this is one of the reasons for the need of good cause eviction, to protect the good residence that live in these courts.

**Jerry Johnson, Billings Health Department**, said that currently the only regulatory agency for mobile home courts is the local City-County Health Departments. The department is suppose to check on the mobile home parks once a year primarily checking on water, sewage and garbage. He said residents risk eviction if they complain. He referred to a letter in exhibit 4 from the Yellowstone County Health Department who had been invited to a tenants association meeting, but was unable to attend. **EXHIBIT 4**

**John Wyman, Montana People's Action (MPA) staff person in Great Falls**, stated his support for HB 245. He referred to a letter in exhibit 4 from the MPA. **EXHIBIT 4**

**Bill Olson, American Association of Retired Persons (AARP)**, distributed written testimony which states that AARP advocates legislation to protect the rights of older mobile home owners. **EXHIBIT 5**

**Dory Ritrovato, Butte**, said the mobile home park owners waived their rights when they applied for and were issued a license to operate their parks. He referred to exhibit 4 regarding good cause legislation adopted in other states of the region. **EXHIBIT 4**

**Linda Lee, Executive Director of the Montana Public Interest Research Group on the University of Montana Campus (MontPirg)**, said there are 2,500 student members and 1,500 community members state wide who want to be on record in support of HB 245. She referred to a letter from Mayor Dan Kemmis and Fern Hart. **EXHIBITS 4 AND 6**

**Cindy Moree, State wide leader for the Montana People's Action**, said that HB 245 provides a remedy to families who occasionally find themselves on hard times.

**Chet Kinsey, representing the Montana Senior Citizens Association, and treasurer of the Montana Low Income Coalition**, said the senior citizens want to go on record in support HB 245.

**Les McBirnie, West Yellowstone**, said he is concerned with the situation in West Yellowstone. All of the courts are full, and if there is a rapid eviction notice, there isn't any place to go. He referred to a letter in exhibit 4 from Ken Davis. He urged the committee's support for HB 245. **EXHIBITS 4 and 16**

**Nancy Collins, Covered Wagon Court in Bozeman**, said that bankruptcies and the homeless will become a reality in Montana, and will need to provide honest accountability for evictions. She said all the mobile home owners ask for is a fair law which will protect good owners and tenants.

**Wilbur Whanger, Westview, Glasgow**, said the tenants need the security of HB 245.

**Belinda Rinker, representing District 9 HRDC, and statewide HRDC Directors Organizations**, said low-income clients of HRDC have turned to mobile home ownership as an alternative to high price housing and non-availability of rental units. She said the HRDC supports HB 245.

**Jack Postlewhaite, previous Landlord**, said he realizes they need rules and regulations in any business, which owning a mobile home court is. He said that HB 245 covers most of the issues for the landlords and the tenants.

**REP. HOWARD TOOLE, House District 60, Missoula**, said he supports HB 245. He compared HB 245 with the Good Cause Employment Act that was passed by this Legislature in 1987.

Opponents' Testimony:

**Geoffrey Bayliss, Landlord and property manager in Missoula**, said it is important for everyone to know that the landlords are not the ogres out to evict people, they are in the business to rent to people.

**Robert Dunlop, Mobile Home landlord, Helena**, stated his opposition to HB 245. He felt that this whole issue should have been solved at the local level where there is a problem instead of involving everyone in Montana.

**Tom Hopgood, Attorney, Helena**, said HB 245 as drafted and amended destroys all assumptions that landlords in this type of business will be able to control various critical decisions.

**Greg Van Horssen, Income Property Managers Association (IPMA) and the Montana Landlords Association (MLA)**, stated his opposition to HB 245 and distributed written testimony. **EXHIBIT 7**

**Mary McCue, representing Helena, Bozeman and other Mobile Home Park Owners across Montana**, said the mobile home park owners need more time to review all of the amendments that have been presented to see the effect they will have on the bill.

**Bruno Freia, Realtor, Missoula**, said the rationales for the proposed statutes contained in the preamble of HB 245 are entirely unproven and unsupported allegations. He presented petitions in opposition to HB 245. **EXHIBIT 18**

**Dan Wood, Montana Landlord's Association, Bozeman**, distributed information on the Montana Landlord/Tenant Law. He said HB 245 is unfair legislation, and it will tie the hands of landlords and mobile home park operators. He said once the door is opened for just cause eviction for mobile home tenants, it will be extended for **ALL** tenants in the state of Montana. He said the state of Washington had just cause eviction pass through their Legislature two years ago and it lasted only one year because of the tremendous back log it caused in the court system. **EXHIBIT 8**

**Montana Watts, Montana Mobile Home Court and Campground Association, Billings**, stated her opposition of HB 245.

**Carla Brien, tenant of Ms. Watts in Billings**, distributed a copy of a petition signed by all of the tenants of Ms. Watts mobile home court in opposition to HB 245 and HB 321. **Ms. Brien** said they would have included HB 422 also if they had known about it. **EXHIBIT 9**

**Stan Clothier, Vice President of the Montana Landlords Association, Kalispell**, said he and the association are in opposition to HB 245.

**Judi Reynolds**, distributed written testimony in opposition to HB 245, HB 321 and HB 422. **EXHIBIT 10**

**Lee Reynolds**, said he opposes HB 245, HB 321 and HB 422. **EXHIBIT 11**

**Loyd and Ruthe Upton, Managers, Casa Village Mobile Home Park**, oppose HB 245 and HB 321. **EXHIBIT 12**

**Terry L. Seiffert, Attorney at Law, Billings**, said he is in opposition to HB 245 and HB 321. **EXHIBIT 13**

**Vern Fischer, Great Falls**, said he is opposed to HB 245. **EXHIBITS 14 and 15**

**Ken Chilcote, President Western Montana Landlords Association**, said he opposes HB 245. **EXHIBIT 17**

Questions From Committee Members and Responses:

**REP. SONNY HANSON** asked **REP. KADAS** if he has reviewed this bill with any of the financial institutions in Montana to see if it acts as a detriment on their behalf to contribute towards the construction of new courts? **REP. KADAS** asked **Jim Parker, Montana Peoples Action (MPA)** to respond. **Mr. Parker** said that through non-profit development agencies which Montana Peoples Action is now engaged with, they are able to apply for federal grant money that is not obtainable any other way. **Mr. Parker** said the Peoples Association have been working with technical assistance from the National Cooperative Bank in Washington D.C. for building mobile home courts all across the United States. He said the Cooperative Bank people came to Missoula and are at this time seriously engaged with propositions with some local banks in Missoula to develop resident owned mobile home courts. **REP. HANSON** said he has not received an answer to his question. **Mr. Parker** referred the question to Jim Fleischmann, MPA. **Mr. Fleischmann** said the MPA is working with Savings and Loans organizations in Missoula who are sponsoring and raising money through the Federal Home Loan Bank so the MPA can proceed with the development of Cooperative Mobile Home Courts. **Mr. Fleischmann** said they are also working with the Montana Board of Housing because of their concern with the lack of security in the length of the leases that are provided to mobile home court residents. He said if HB 245 is passed through this Legislature, it will provide the mobile home residents with greater security, because the Board of Housing will be able to become involved in the funding of mobile homes.

Closing by Sponsor:

**REP. KADAS** closed making note of Ms. McCue's comments that most of the problems lie with bad tenants and bad landlords. He said this bill tries to place some criteria in the laws so bad landlords have some responsibility to their tenants. **REP. KADAS** asked all the proponents to stand that did not have a chance to present testimony.

## HEARING ON HB 321

Opening Statement by Sponsor:

**REP. TIM DOWELL, House District 5, Kalispell,** said his comments on HB 321 will address all three of the bills being heard today. He said a comment was made during testimony on HB 245 that there wasn't any evidence of a housing crisis in Montana. He said the bill is in two parts. The first part explains the definitions, and the second part is the new language added to address mobile home parks. **REP. DOWELL** distributed amendments for HB 321. He said they address HB 321 the same way the amendments addressed HB 245. He proceeded through the amendments to show the committee how they will effect the bill. **EXHIBIT 19**

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL DATE 2-5-93

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| REP. ALVIN ELLIS | ✓ | | |
| REP. DICK KNOX | ✓ | | |
| REP. NORM MILLS | ✓ | | |
| REP. JOE BARNETT | ✓ | | |
| REP. RAY BRANDEWIE | ✓ | | |
| REP. JACK HERRON | ✓ | | |
| REP. TIM DOWELL | ✓ | | |
| REP. CARLEY TUSS | ✓ | | |
| REP. STELLA JEAN HANSEN | ✓ | | |
| REP. BOB PAVLOVICH | ✓ | | |
| REP. VICKI COCCHIARELLA | ✓ | | |
| REP. FRITZ DAILY | ✓ | | |
| REP. BOB BACHINI | ✓ | | |
| REP. DON LARSON | ✓ | | |
| REP. BRUCE SIMON | ✓ | | |
| REP. DOUG WAGNER | ✓ | | |
| REP. SONNY HANSON, VICE CHAIRMAN | ✓ | | |
| REP. STEVE BENEDICT, CHAIRMAN | ✓ | | |
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HR:1993
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EXHIBIT 1
DATE 2-5-93
HB 245

Amendments to House Bill No. 245
First Reading Copy

Requested by Representative Kadas
For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 3, 1993

1. Page 1, line 13.
Following: "and"
Insert: "the potential for"

2. Page 1, lines 16 through 19.
Following: "may"
Insert: ", without supplying a reason,"
Strike: "for" on line 16 and through "homes" on line 19

3. Page 1, line 21.
Strike: "upon failure to pay rent"
Insert: "if evicted unfairly"

4. Page 1, line 25.
Strike: "make rental payments"
Insert: "comply with the eviction"

5. Page 5, line 8.
Following: "rent"
Insert: "or late charges"

6. Page 5, line 11.
Following: "conduct"
Insert: "on the mobile home park premises"

7. Page 5, line 16.
Following: "(d)"
Insert: "(i)"

8. Page 5, line 18.
Following: "ordinance"
Strike: "or"
Insert: ";
(ii)"

9. Page 5, line 19.
Following: "violation"
Insert: "on the mobile home park premises"

10. Page 5, line 21.
Following: "park"
Insert: "; or
(iii) the landlord's documentation by a preponderance of the evidence of a felony offense involving a controlled substance"

11. Page 5, line 25.
Following: "(2)"
Insert: "(a) A mobile home owner or a tenant of a mobile home who fails to pay the overdue rent and late charges within 15 days of receiving notice of nonpayment of rent, as provided in 70-24-422, is subject to termination procedures as provided in 70-24-422."
Renumber: subsequent subsections

12. Page 6, line 2.
Strike: "three"
Insert: "two"

13. Page 6, line 5.
Following: "late"
Insert: "rent"

14. Page 6, lines 8 and 9.
Following: "(ii)"
Strike: remainder of line 8 through "payment" on line 9
Insert: "additional charges for late rent payment must be reasonable and must be paid as provided in subsection (2)(a) unless the landlord and tenant agree otherwise"

15. Page 6, line 13.
Strike: "third"
Insert: "second"

16. Page 6, line 17.
Following: "agreement"
Insert: "and the provisions of subsection (3)(b) requiring a compliance period do not apply"

17. Page 6, line 21.
Strike: "unfair,"

18. Page 6, lines 21 and 22.
Strike: ", or unconscionable"

19. Page 6, line 23.
Following: "70-24-311;"
Insert: "and"

20. Page 6, line 24.
Following: "of the"
Insert: "new"

21. Page 6, line 25 through page 7, line 4.
Following: "place" on page 6, line 25
Strike: the remainder of line 25, page 6 through "residents" on page 7, line 4

22. Page 7, line 8.
Page 7, line 9.
Strike: "15"

Insert: "14"

23. Page 7, line 13.
Following: "owner"
Insert: "who has complied with the rule within 14 days after receipt of a notice as provided in subsection (3)(b)"

24. Page 7, line 15.
Following: "period"
Insert: "and it is shown that the mobile home owner or tenant of the mobile home owner has violated that rule"
Following: "required"
Insert: "for the next 6 months"

25. Page 7, line 18.
Following: "70-24-422"
Insert: "without providing a 14-day compliance period"

26. Page 7, line 19.
Following: line 18
Insert: "(d) If a mobile home owner or tenant of the mobile home owner has been given a written notice of an alleged violation of a rule that would have a significant adverse impact on the mobile home park or its residents on three or more occasions within a 12-month period and it is shown that the mobile home owner or tenant of the mobile home owner has violated the rule, a written notice is not required for the next 6 months for a subsequent violation of any rule that would have a significant adverse impact on the mobile home park or its residents and the rental agreement may be terminated as provided in 70-24-422 without providing a 14-day compliance period. Only one notice a month may be given."

decreasing services, or by bringing or threatening to bring an action for possession after the tenant:

(a) has complained of a violation applicable to the premises materially affecting health and safety to a governmental agency charged with responsibility for enforcement of a building or housing code;

(b) has complained to the landlord in writing of a violation under 70-24-303; or

(c) has organized or become a member of a tenant's union or similar organization.

(2) If the landlord acts in violation of subsection (1) of this section, the tenant is entitled to the remedies provided in 70-24-411 and has a defense in any retaliatory action against him for possession.

(3) In an action by or against the tenant, evidence of a complaint within 6 months before the alleged act of retaliation creates a rebuttable presumption that the landlord's conduct was in retaliation. The presumption does not arise if the tenant made the complaint after notice of a proposed rent increase or diminution of services. For purposes of this section, "rebuttable presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(4) Notwithstanding subsections (1), (2), and (3) of this section, a landlord may bring an action for possession if:

(a) the violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant, a member of his family, or other persons on the premises with his consent;

(b) the tenant is in default in rent; or

(c) compliance with the applicable building or housing code requires alteration, remodeling, or demolition which would effectively deprive the tenant of use of the dwelling unit.

(5) The maintenance of an action under subsection (4) of this section does not release the landlord from liability under 70-24-405(2).

History: En. 42-442 by Sec. 42, Ch. 313, L. 1977; R.C.M. 1947, 42-442.

**70-24-432 through 70-24-440 reserved.**

**70-24-441. Termination by landlord or tenant.** (1) The landlord or the tenant may terminate a week-to-week tenancy by a written notice given to the other at least 7 days before the termination date specified in the notice.

(2) The landlord or the tenant may terminate a month-to-month tenancy by giving to the other at any time during the tenancy at least 30 days' notice in writing prior to the date designated in the notice for the termination of the tenancy.

(3) The tenancy terminates on the date designated and without regard to the expiration of the period for which, by the terms of the tenancy, rents are to be paid. Unless otherwise agreed, rent is uniformly apportionable from day to day.

History: En. 42-440 by Sec. 40, Ch. 313, L. 1977; R.C.M. 1947, 42-440(1), (2).

**70-24-442. Attorney fees — costs.** (1) In an action on a rental agreement or arising under this chapter, reasonable attorney fees, together with costs and necessary disbursements, may be awarded to the prevailing party notwithstanding an agreement to the contrary.

(2) As used in this section, "prevailing party" means the party in whose favor final judgment is rendered.

History: En. 42-417 by Sec. 17, Ch. 313, L. 1977; R.C.M. 1947, 42-417.

Cross-References
Civil procedure — costs, Title 25, ch. 10.

EXHIBIT 2
DATE 2-5-93
HB 245

# CHAPTER 25

# RESIDENTIAL TENANTS' SECURITY DEPOSITS

Part 1 — General Provisions


70-25-101. Definitions.
70-25-102. Application of chapter.
70-25-103. Waivers and contrary provisions invalid.


Part 2 — Rights and Duties


70-25-201. Security deposit — deductions authorized therefrom.
70-25-202. List of damages and refund — delivery to departing tenant.
70-25-203. Failure to provide list — forfeiture of deduction rights.
70-25-204. Wrongful withholding of security deposit — action.
70-25-205. Failure of departing tenant to furnish new address.
70-25-206. Landlord to furnish statement of condition of premises at beginning of lease.


## Part 1

## General Provisions

**70-25-101. Definitions.** As used in this chapter, the following definitions apply:

(1) "Cleaning expenses" means the actual and necessary cost of cleaning done by an owner or his selected representative for cleaning needs not attributable to normal wear brought about by the tenant's failure to bring the premises to the condition it was at the time of renting.

(2) "Damage" means any and all tangible loss, injury, or deterioration of a leasehold premises caused by the willful or accidental acts of the tenant occupying same or by the tenant's family, licensees, or invitees, as well as any and all tangible loss, injury, or deterioration resulting from the tenant's

EXHIBIT 9
DATE 2-5-93
HB 245

AMENDMENT TO HB #245:

1. From the amendments prepared by Paul Verdon on February 3, 1993 strike amendments 7,8,9 and 10 (all on page one), then;

2. Page 5, line 17.
Following: "violation"
Insert: "upon the park premises"

3. Page 5, lines 18 through 21.
Following: "ordinance"
Strike: "or" on line 18 and through "park" on line 21
Insert: ", when the violation is detrimental to the health, safety, or welfare of other residents or the landlord of the mobile home park, or the landlord's documentation, by a preponderance of the evidence of a violation of a felony offense involving a controlled substance;"

EXHIBIT 4
DATE 2-5-93
HB 245

# "PEOPLE FIGHTING FOR A GOOD CAUSE"

# – CAMPAIGN '93

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5. LETTER FROM HOUSING AUTHORITY, HELENA

6. STATEMENT FROM BILLINGS, HOUSING - HEALTH DEPT.

7. EXAMPLES OF GOOD CAUSE FROM OTHER STATES
( ACTUAL ACTS )

8. LETTER FROM MISSOULA HOUSING TASK FORCE

9. DOCUMENTATION OF ATTEMPTS TO COLLABORATE
WITH MONTANA LANDLORDS

10. LETTER FROM WEST YELLOWSTONE CITY COUNCIL

11. STATES WITH SAME FIVE REASONS FOR TERMINATION

12. WARNINGS OF EVICTION FROM LEXLEY ACRES - BELGRADE

13. MEDIATION TESTIMONY

14. "GOOD CAUSE" COMPROMISE - DRUGS

15. LETTER FROM GREAT FALLS

# WESTERN AND CENTRAL STATES THAT HAVE ENACTED "GOOD CAUSE" LEGISLATION

EXHIBIT 4
DATE 2-5-93
HB 245

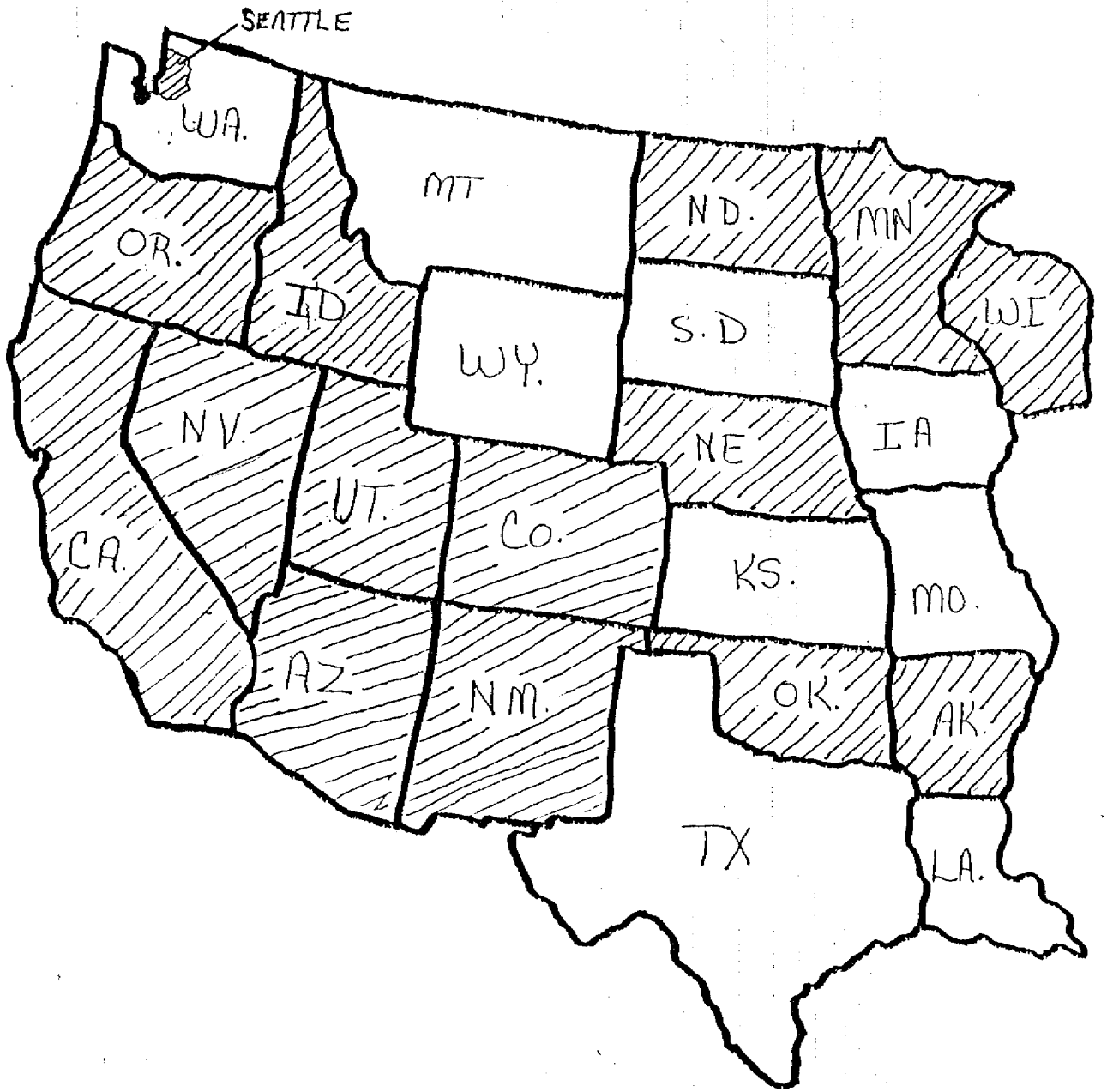

EXHIBIT 4
DATE 2-5-93
HB 245

# TESTIMONY: "PEOPLE FIGHTING FOR A GOOD CAUSE" - CAMPAIGN '93

(FRIDAY FEBRUARY 5, 1993 : ROOM 312 [2])

[SUBJECT TO CHANGE]

GOOD CAUSE: BILL #1 --- HB 245 [APPROX. *30 MINUTES*]

| NAME: | |
|---|---|
| A] REP. MIKE KADAS | SPONSOR OF HB 245 |
| 1] BRUCE HIETALA | TARGET RANGE COURT/MISSOULA |
| 2] KLAUS SITTE | LEGAL SERVICES ATTORNEY |
| 4] BEA STEEN | GOLDEN ESTATES, HELENA,MT |
| 5] BOB CRESTENSON | LEISURE COURT, LOLO,MT |
| 6] JERRY JOHNSON | BILLINGS HEALTH DEPT. REPORT |
| 7] JOHN WYMAN | GT.FALLS - MPA |
| 8] BILL OLSEN | AARP |
| 9] DORY RITROVATO | BUTTE, MT |
| 10] LINDA LEE | MONTPIRG |
| 11] CINDY MOREE | TRAVOIS VILLAGE - MISSOULA |
| 12] CHET KINSEY | MONTANA SENIOR CITIZEN'S ASSOC. |
| 13] LES McBIRNIE | WEST YELLOWSTONE, MT. |
| 14] NANCY COLLINS | COVERED WAGON - BOZEMAN |
| 15] WILBUR WHANGER | WESTVIEW - GLASCOW/MSLA |
| 16] DAN SHEA | MT. LOW INCOME COALITION |
| 17] JACK POSTLEWHAITE | LANDLORD |
| 18] LELA DeCOCK | LEXLEY ACRES - BELGRADE, MT. |
| 19] REP. HOWARD TOOLE | WORKERS TERMINATION |
| 20] JIM PARKER | MPA STAFF |
| B] SPONSOR CLOSES | |

LEASES: BILL #2 HB 321 [APPROX. 20 MINUTES]

| | |
|---|---|
| A] REP. TIM DOWELL | SPONSOR HB 321 |
| 2] DEB WASINGER | TRAVOIS VILLAGE - MISSOULA |
| 4] TERRY DALQUIST | MISSOULA VILLAGE WEST |
| 6] MIKE SLEVIN | WEST YELLOWSTONE |
| 7] PERCIE JONES | HOLLYWOOD T. C., MISSOULA |
| 7] BILL OLSEN | AARP |
| 8] ALICE JENKE | LEXLEY ACRES - BELGRADE, MT. |
| 9] LLOYD ANDERSON | MSCA - [POSSIBLE] |
| 10] ELEONOR WEND | FOREST PARK - BOZEMAN, MT. |
| 11] JIM PARKER | MPA STAFF |

B] SPONSOR CLOSES

RULES/REGS: BILL #3 HB 422 [APPROX. 20 MINUTES]

| | |
|---|---|
| A] REP. DON LARSON | SPONSOR HB 422 |
| 1] STACEY JAFFE | TARGET RANGE - MISSOULA |
| 1] RON GRAFT | TRAVOIS VILLAGE - MISSOULA |
| 2] JAN WORDEN | FOREST PARK - BOZEMAN, MT. |
| 3] ALLEN PICKETT | MISSION MHC - STEVENSVILLE,MT |
| 4] RON WAGNER | TARGET RANGE - MISSOULA |
| 6] MIKELLETE MEADE | TARGET RANGE - MISSOULA |
| 6] JOEL WASINGER | TRAVOIS - MISSOULA |
| 7] PAT KELLER | TRAVOIS - MISSOULA |
| 8] GEORGJEAN OAKS | TWILIGHT - HELENA,MT. |
| 9] KEN CRISP | TARGET RANGE - MISSOULA |
| 10] KLAUS SITTE | ATTORNEY - LEGAL SERVICES |
| 11] JIM PARKER | MPA STAFF |

B] SPONSOR CLOSES

4

EXHIBIT 4
DATE 2-5-93
HB 245

Mr. Chairman, Members of the Committee:

My name is Jim O'Brien. I am an attorney in private practice in Missoula, Montana. I currently represent three different tenant associations which have sprung up in the last year and a half. The associations consist of owners and renters of mobile homes in various mobile home trailer courts in Missoula.

I request that you give serious consideration to the legislation being proposed to you this day. I am currently engaged in three separate landlord/tenant lawsuits. The first, and by far the largest, is the Travois Resident's Association. There are over 200 families involved in the Association. They were formulated principally to protect themselves from wide-ranging and preposterous regulations. The current state of the law allows landlords to impose "reasonable" rules and regulations upon their tenants. The tenants' only remedy is to seek redress in court. The current Landlord Tenant Act does not sufficiently protect mobile home owners and renters from arbitrary conduct on the part of the landlord. In particular, Moore Enterprises, the landlord involved in the Travois Mobile Home Trailer Park, has regularly engaged in practices which have imposed tremendous burdens on the residents. For example, the landlord has regularly terminated water supply without notice, opining that he is unable to provide advance notice for repairs to the water system. Moore Enterprises has publicly announced the imposition of a body of rules, some of which are clearly illegal (for example, refusal to accept cash as

payment for rent, unduly restricting the sale of mobile homes, requiring mobile homes within the trailer park to meet unspecified "beauty" standards).

Moore Enterprises has both publicly announced that the rules are in force and later claimed they were not. My clients are unable to rely upon anything the landlord says.

Moore Enterprises has engaged in a systematic breach of its agreement with the residents. Despite the promise of snow removal, regular video taping not only demonstrates the landlord's failure to timely remove snow. Regular mid-week videotaping has demonstrated that, despite multiple written and oral complaints, Moore Enterprises has refused to provide sufficient garbage service to meet the needs of the community.

As this testimony is being presented to you, service upon a second landlord has been obtained on a second lawsuit as a result of the landlord's unwillingness to respond to informal overtures to correct hazardous conditions. In particular, the Sherwood's Mobile Home Trailer Court Association is subjected to power lines so low as to be a danger to residents. Despite the fact that the residents informally requested, over six months ago, to have the condition remedied, the landlord has, nevertheless, ignored their requests. Currently, five family units in the Association are not receiving nor have they received hot water for over sixty days. Conditions at the Sherwood Court are deplorable. Nevertheless, the tenants remain vulnerable to arbitrary decision on the part of the landlord.

These tenants need the additional legislation proposed to you in order to obtain protection.

I mentioned at the outset that I represent three associations. The third association is a collection of 16 families out of a trailer court of 65. The landlord of the trailer court in which this association is formulated has, quite rightly, noted that the association is made up of less than a majority of the residents. He has, quite rightly, identified that the other tenants are not joining the association. The obvious question is, why? The answer is equally obvious. Just as the association began to formulate, one of the principles received a notice of termination. The termination notice was very public and, of course, included no reason for the termination. The termination had the desired effect: The tenant's union halted almost immediately. Why should the forty-nine families join a tenant's union when to do so jeopardizes their very home? Termination without just-cause prevents the equality of bargaining because the stakes are much higher to a family. In Missoula, the housing crush is so substantial that there is no viable means for a family to move its mobile home within thirty days.

Currently I am representing an individual single father of two children. Not uncommonly, like many families, there is an ongoing divorce. The father currently has custody of his children. In August of this year the father was at home with his children. The father was on the telephone engaged in a long-distance conference business call. Management presented itself on his doorstep and

demanded of the father's minor child that the father come and correct a minor trailer court violation immediately. When the father was unable to respond to management's demands, the child was verbally abused. When the father finally arrived at the doorstep, after leaving the conference call, the father confronted management with intemperate language over the treatment of his child. The next day the father received a thirty day notice of termination. No reason was given, but the father later learned that the intemperate language exchanged on his doorstep formulated the principal basis for termination.

Legislation is needed to prevent arbitrary evictions of tenants. While the Residential Landlord Tenant Act was progressive for its time, new legislation is necessary to recognize the changing demographics of housing and family circumstances. There are horror stories upon horror stories of landlord mistreatment of tenants.

The landlord/tenant relationship should be a business relationship. The landlord is entitled to protection from abusive tenants and to ensure the smooth operation of his business. Equally important, however, is the recognition that we are dealing with people's homes. The essence of the legislation before you is to assure that there is just-cause, a good reason to remove a family from their home. What we present to you today is not to empower the tenants to strip a landlord of his property rights. Rather, the legislation presented for your consideration merely equalizes the relationship between the parties. When there is a

bad reason, or no reason, to terminate tenancy, there is likewise no reason to have a person removed from his home. The landlords I have dealt with over the last year and a half opine cooperation while using every available avenue to obstruct a meaningful exchange of ideas and resolutions. Proponents of the legislation which is now before you have spent months attempting to receive input from landlord associations across the state of Montana. Landlords can be assured that the government supports evictions which are based upon appropriate reasons. Tenants, likewise, can be assured that they will not be removed from their home against their will without justification. I respectfully request that you recommend a "Do-Pass" to the legislation before you. All the population of Montana will benefit by a provision in the law which requires that people be given just-cause for the termination of their tenancy.

4
3-5-93
HB 245

# HELENA HOUSING AUTHORITY

## [A STUDY OF HB 245 - "GOOD CAUSE" EVICTION LEGISLATION]

From our research it is our contention that enacting HB #245, the "Good Cause" bill, into legislation would reduce the amount of evictions resulting in contentious litigation between mobile home owners living in mobile home courts and landowners. The "Good Cause" bill would clear up the grey areas in the current law and clearly demarcate the responsibilities of both the landowner and the mobile home owner.

In a letter from George Marble, the Administrative Officer of the Helena Housing Authority, he states that, "For public housing, the oldest leases I could find, with a provision that the housing authority must give the resident a reason for eviction, are dated 1975. For section 8, 1979."

"To the best of my knowledge based on nineteen years in public housing and through research done in 1990 when the housing authority revamped its lease, tenant handbook, and grievance procedure, the good cause provisions have never been a problem. I have not heard other housing authorities state a problem with the provision. Stating the reason for eviction has been required by HUD and contained in public housing leases for many years."

"Stating the cause for termination gives all parties to the process the same focal point for argument throughout the process relieving the bantering about extraneous issues."

"I can find no evidence that the housing authority has ever had to go to court to enforce an eviction."

The Housing Authority has shown that, since introducing their "Good Cause" clause into their leases, they have not gone to court to enforce any evictions. This is achieved by setting up the parameters of landowner/resident relationships into black and white terms.

With the knowledge that all federal housing contracts, as well as 28 other states in the Union, currently carry "Good Cause" eviction statutes, we must believe that this type of legislation is tried and true. We have painstakingly crafted HB #245 to model other state's laws and not 'go it alone'. We have drafted a bill that, although new by Montana standards, is conservative if we compare it to laws passed in neighboring, regional states. We urge you to consider the vast data supporting our beliefs that HB #245, "Good Cause" eviction legislation, is a fair, reasonable and timely bill for all Montanans who own mobile homes and live in mobile home courts.

State Office: 208 East Main Street, Missoula, Montana 59802 • (406) 728-5297
11 6th Street North, Great Falls, Montana 59401 • (406) 727-9962
530 South 27th Street, Billings, Montana 59101 • (406) 245-6106

EXHIBIT 4
DATE 2-5-93
HB 245

County of Yellowstone

CITY-COUNTY HEALTH DEPARTMENT

POST OFFICE BOX 35033
BILLINGS, MONTANA
59107

January 28, 1993

EXHIBIT 4
DATE 2-5-93
HB 245

Dennis McCord
118 South 30th
Billings, MT 59101

Dear Mr. McCord,

I would like to thank you for inviting the Yellowstone City-County Health Department to the Blaine's Trailer Court Tenants Association meeting. However, no one from our staff will be able to attend the meeting scheduled on January 29, 1993 at 7:00 p.m.

I will try to address your concerns and answer the questions about inspections and procedures in handling complaints.

Trailer courts are regulated under Title 50, Chapter 52, MCA (50-52-101 through 50-52-303). Inspections are conducted under Title 16, Chapter 10 Subchapter 7, ARM (16.10.701 through 16.10.717).

The Yellowstone City-County Health Department conducts compliance inspections of each trailer court in Yellowstone County a minimum of once per year. Additional inspections may be conducted in response to complaints. These types of inspections are usually made due to garbage, sewage or nuisance complaints.

If violations are found during an inspection the owner or manager is given written notice of the violation(s) and given a specified time period to abate the noted violation(s). If non-compliance of any violation occurs and is not corrected, the Yellowstone City-County Health Department requests that the Yellowstone County Attorney's office proceed with any enforcement action, which could include fines and, in extreme cases, an injunction to close the trailer court. In all cases we try to work with owners and complainants to achieve quick and satisfactory abatement of the problem.

It must be pointed out that the Yellowstone City-County Health Department does not have statutory authority for enforcing violations that are covered under the Landlord-Tenant Act.

Situations that are caused directly or indirectly by landlord such as no heat, electricity or water come under the Landlord-Tenant Act. It is recommended, under these circumstances, that the tenant seek legal counsel or call Montana Legal Services at 248-7113 or file under Small Claims Court.

It must also be mentioned that if a landlord or owner refuses to abate certain violations or nuisances, the Yellowstone City-County Health Department's only recourse is to have the house or trailer closed to occupancy. This would require the tenant or renter to move within 30 days.

Complaints are confidential and our office does not give names of complainants, however, landlords have been known to give written eviction notices when notified about complaints. Our office has not control over these types of actions.

If our office cannot help in a particular situation we will always try to direct you to the proper agency where help may be obtained.

If you have any further questions, please call 256-2752

Sincerely,

Ted Kylander

Ted Kylander, R.S.

TK/ajt

cc: Vicki Coonfare, 206 Jim
Les Protopapas, 618 Richard

enclosures

(3) No tenant shall be required to give the landlord more than 30 days' written notice to terminate. [Formerly 91.880; 1991 c.67 §15]

**90.630 Termination by landlord; causes; notice.** (1) Except as provided in subsection (3) of this section, the landlord may terminate the rental agreement for space for a manufactured dwelling or floating home by giving to the tenant not less than 30 days' notice in writing before the date designated in the notice for termination if the tenant:

(a) Violates a law or ordinance which related to the tenant's conduct as a tenant; or

(b) Violates a rule imposed as a condition of occupancy.

(2) The notice required by subsection (1) of this section shall state facts sufficient to notify the tenant of the reasons for termination of the tenancy.

(3) The tenant may avoid termination of the tenancy by correcting the violation within the 30-day period specified in subsection (1) of this section. However, if substantially the same act or omission which constituted a prior violation of which notice was given recurs within six months, the landlord may terminate the tenancy upon at least 20 days' written notice specifying the violation and the date of termination of the tenancy.

(4) The landlord of a facility, as defined in ORS 90.500, may terminate the rental agreement for a facility space if the facility or a portion of it that includes the space is to be closed and the land or leasehold converted to a different use, which is not required by the exercise of eminent domain or by order of state or local agencies, by:

(a) Not less than 365 days' notice in writing before the date designated in the notice for termination; or

(b) Not less than 180 days' notice in writing before the date designated in the notice for termination, if the landlord finds space acceptable to the tenant to which the tenant can move the manufactured dwelling or floating home and the landlord pays the cost of moving and set-up expenses or $3,500, whichever is less.

(5) The landlord may:

(a) Provide greater financial incentive to encourage the tenant to accept an earlier termination date than that provided in subsection (4) of this section; or

(b) Contract with the tenant for a mutually acceptable arrangement to assist the tenant's move.

(6) The Housing and Community Services Department shall adopt rules to implement the provisions of subsection (4) of this section.

(7)(a) A landlord shall not increase the rent for the purpose of offsetting the payments required under this section.

(b) There shall be no increase in the rent after a notice of termination is given pursuant to this section.

(8) Nothing in this section shall limit a landlord's right to terminate a tenancy for nonpayment of rent or any other cause stated in ORS 90.100 to 90.940 by complying with ORS 105.105 to 105.165.

(9) Nothing in subsection (4) of this section shall prevent a landlord from relocating a floating home to another comparable space in the same facility or another facility owned by the same owner in the same city if the landlord desires or is required to make repairs, to remodel or to modify the tenant's original space. [Formerly 91.886; 1991 c.844 §12]

**(Ownership Change)**

**90.670 Payment of storage charges before removal of dwelling.** (1) The landlord may serve a copy of the notice required by ORS 90.425 (2) or 90.690 (2) by certified mail on any lienholder. A tenant or a lienholder to whom the landlord has sent a copy of the notice, or a successor in interest to such a lienholder, shall not remove the manufactured dwelling from the facility without paying to the landlord reasonable storage charges, not exceeding the monthly rent last payable by the tenant, accruing since the notice was sent to the lienholder.

(2) The landlord may screen a purchaser from a lienholder who wishes to remain as a tenant under the same terms and conditions as the landlord could apply to a purchaser from the tenant as provided in ORS 90.510 (5)(i) and 90.680. [Formerly 91.915; 1991 c.844 §13]

**90.680 Right to sell dwelling on rented space; notice prior to sale; duties and rights of prospective purchaser.** (1) No landlord shall deny any manufactured dwelling or floating home space tenant the right to sell a manufactured dwelling or floating home on a rented space or require the tenant to remove the home from the space solely on the basis of the sale.

(2) The landlord shall not exact a commission or fee for the sale of a manufactured dwelling or floating home on a rented space unless the landlord has acted as agent for the seller pursuant to written contract.

(3) The landlord may not deny the tenant the right to place a "for sale" sign on or in a manufactured dwelling or floating home

## § 38-12-203. Reasons for termination

(1) After July 1, 1973, a tenancy shall be terminated pursuant to this part 2 only for one or more of the following reasons:

(a) Failure of the home owner to comply with local ordinances and state laws and regulations relating to mobile homes;

(b) Conduct of the home owner, on the mobile home park premises, which constitutes an annoyance to other home owners or interference with park management;

(c) Failure of the home owner to comply with written rules and regulations of the mobile home park either established by the management in the rental agreement at the inception of the tenancy, amended subsequently thereto with the consent of the home owner, or amended subsequently thereto without the consent of the home owner on sixty days' written notice if the amended rules and regulations are reasonable, except when local ordinances and state laws and regulations or emergency situations require immediate compliance. However, regulations applicable to recreational facilities may be amended at the discretion of the management. For purposes of this paragraph (c), when the mobile home is owned by a person other than the owner of the mobile home park, the mobile home is a separate unit of ownership, and regulations which are adopted subsequent to the unit location in the park without the consent of the home owner and which place restrictions or requirements on that separate unit are prima facie unreasonable. Nothing in this paragraph (c) shall prohibit a mobile home park owner from requiring compliance with current park unit regulations at the time of sale or transfer of the mobile home to a new owner. Transfer under this paragraph (c) shall not include transfer to a coowner pursuant to death or divorce or to a new coowner pursuant to marriage.

(d)(I) Condemnation or change of use of the mobile home park. When the owner of a mobile home park is formally notified by an appropriate governmental agency that his mobile home park is the subject of a condemnation proceeding, the landlord shall, within seventeen days, notify his home owners in writing of the terms of the condemnation notice which he receives.

(II) In those cases where the zoning law allows the landlord to change the use of his land without obtaining the consent of the zoning authority and where such change of use would result in eviction of inhabited mobile homes, the landlord shall first give the owner of each mobile home subject to such eviction a written notice of his intent to evict not less than six months prior to such change of use of the land, notice to be mailed to each home owner.

(e) The making or causing to be made, with knowledge, of false or misleading statements on an application for tenancy.

(2) In an action pursuant to this part 2, the landlord shall have the burden of proving that he complied with the relevant notice requirements and that he provided the home owner with a statement of reasons for the termination. It shall be an affirmative defense that the landlord's allegations are false or that the reasons for termination are invalid.

(Laws 1973, S.B.332, § 1; Laws 1979, S.B.436, § 3; Laws 1981, H.B.1524, § 4; Laws 1984, H.B.1170, § 1; Laws 1987, H.B.1171, § 4.)

**Prior Compilations:** C.R.S.1963, § 58-2-3.

### Historical and Statutory Notes

As enacted subsec. (1)(c) and (d) provided:

"(c) Failure of the tenant to comply with rules and regulations of the mobile home park either established by the management in the rental agreement at the inception of the tenancy, amended subsequently thereto with the consent of the tenant, or amended subsequently thereto without the consent of the tenant on sixty days' written notice if the amended rules and regulations are reasonable, except when local ordinances and state laws and regulations or emergency situations require immediate compliance. However, regulations applicable to recreational facilities may be amended at the discretion of the management.

"(d) Condemnation or change of use of the mobile home park;"

The 1979 amendment rewrote subsec. (1)(d).

The 1981 amendment inserted "written" preceding "rules and regulations" near the beginning of subsec. (1)(c).

The 1984 amendment to subsec. (1)(c) added the concluding sentence thereto.

The 1987 amendment substituted references to "home owner" for "tenant" throughout the section.

### Cross References

Burden of proof, see § 13-25-127.

### Library References

State of Colorado

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3-5-93
SB 345

# Missoula Housing Task Force

City of Missoula
Missoula County
The University of Montana

Phone: 406-523-4718

Chairman and Members of the House Committee on Business and Economic Development
Capitol Building
Helena, Montana 59601

Dear Chairman and Members of the House Committee on Business and Economic Development:

On behalf of the Missoula Housing Task Force, we urge you to support the Good Cause Legislation for mobile home court residents. The Missoula Housing Task Force includes representation from over 35 community organizations and businesses including: all of Missoula's banks and savings and loans; Montana People's Action; Missoula County Association of Realtors; Missoula Building Industry Association; Missoula Food Bank; Missoula Housing Authority; District XI Human Resource Council; Missoula Habitat for Humanity; Alliance for the Mentally Ill; Aging Services; Summit Independent Living, Inc. (disabled advocate); Missoula Head Start; Poverello Center (Homeless Shelter); Stepping Stones (mentally disabled); WORD; YWCA; Refugee Assistance Council; The University of Montana; and individual property managers, developers, planners, and numerous city and county agency staff.

The Task Force as a whole has developed, endorsed, and is implementing over 35 recommendations to improve the availability of safe, healthy, affordable housing in Missoula. With the Task Force's support, Montana People's Action is taking the lead on several of these recommendations concerning mobile home courts. The Task Force recommended that MPA take steps to improve the management of mobile home courts. Missoula's recent experience with sub-standard health conditions in several courts has made clear how essential good management is to the provision of affordable, safe mobile home court housing. Without good cause legislation, residents are at risk in their efforts to improve the health and safety of their courts.

The Task Force has found that the biggest barrier to the creation of new courts is the availability of land close to water and sewer that is zoned appropriately for mobile home court development. Mobile home courts must have reasonable costs in providing water and sewer if they are to be feasible in offering affordable housing. Again, MPA will be working with other Task Force members through Missoula's Zoning revision process to support zoning that would allow location of courts where infrastructure already exists, and close to necessary services such as schools and grocery stores.

The Task Force also endorses the concept of cooperation and involvement of tenants in managing the affairs of the developments in which they live. Experience nation-wide has shown that tenant involvement reduces maintenance costs and promotes stability over the long run. Good Cause Legislation is a good step in that direction.

Sincerely:

Fern Hart, Co-Chair
Commissioner, Missoula County

Daniel Kemmis, Co-Chair
Mayor, City of Missoula

EXHIBIT 4
DATE 2-5-93
HB 245

DOCUMENTED ATTEMPTS TO MEET WITH MONTANA LANDLORD ASSOCIATION TO DISCUSS MOBILE HOME COURT LEGISLATION

Mobile home court residents have consistently attempted to engage Montana landlords in a collaborative effort to resolve mobile home court problems in the state of Montana. Prior to the 1991 session of the State legislature, and our first attempt to gain protective legislation for mobile home court residents, many meetings were held in the hopes of reaching a cooperative agreement. The meetings were a failure and did not result in anything resembling common ground. After the 1991 session, members of Montana People's Action initiated a series of meetings with Montana landlords. Meetings were held in the months of January, February, April, May, September, October, and November of 1992. Some of the language of our current proposals came as a result of these meetings. Although some landlords agreed philosophically with the concept of good cause, the general feeling was that their constituency could not. Therefore, collaborative agreement concerning legislation that could effectively address unjust evictions in mobile home courts failed to emerge.

On November 12, 1992, members of MPA met with Dan Woods, President of the Montana Landlord's Association in hopes of developing a collaborative legislative approach. The meeting was productive in that Mr. Woods appeared genuinely concerned about problems in mobile home courts and expressed a willingness to take the issue to his membership for discussion. On December 10, 1992, Montana People's Action sent all three mobile home court bills to Mr. Woods and requested additions or subtractions from the proposed language. A December 18, 1992 meeting with Mr. Woods, in Bozeman, was canceled by Mr. Woods on the morning of the meeting. A second scheduled meeting for January 5, 1993, was canceled by Mr. Woods on January 4, 1993. Many letters and phone calls from Montana People's Action requesting collaboration were also not returned during this period. On Jan. 11, 1993 a final letter was sent to Mr. Woods requesting he respond by January 19, 1993, with the concerns of the Montana Landlord's Association regarding our legislation. Mr. Woods phoned Montana People's Action on January 20, 1993, and ended any realistic hope for a collaborative effort by informing us that "Good Cause" was just not acceptable.

Other efforts to involve landlords in legislative discussion included a meeting with members of the Western Montana Landlord Association and the Missoula County Realtor's Association on January 19, 1993. Another meeting was requested by Montana People's Action but the request went unheeded. In fact, Mr. Bruno Friia, representing the Missoula County Realtor's Association promptly sent a letter to members of the business and economic development committee strongly opposing our Good Cause bill. The concerns that Mr. Friia and other landlords had with HB 245 were subsequently amended into the current form to produce a strong, well balanced piece of legislation.

## SUMMARY OF COLLABORATIVE ATTEMPTS

Montana People's Action has continually urged landlords to become involved in a joint problem solving effort and work together to produce effective legislation. Unfortunately, the collaboration has been largely one-sided.

* 1980 - 1990 - Many meetings between mobile home court residents and Montana landlords. No common language agreed upon.

* 1991 LEGISLATIVE SESSION - Comprehensive MHC bill introduced, stopped in committee hearing.

* 1992: Meetings with the Montana Landlord's Association -
  * January
  * February
  * April
  * May ( Some common language resulting in proposed
  * September additions to Mt. Landlord/Tenant Act -
  * October Inability to resolve deadlock on "GOOD CAUSE")
  * November

* Meetings with Dan Woods, (President, Montana Landlord Assoc.)
  * November 12, 1992 - Request for collaboration by MPA
  * December 10, 1992 - MPA sends all three bills to Mr. Woods
  * December 18, 1992 - Meeting canceled by Mr. Woods on morning of scheduled meeting
  * January 5, 1993 - Meeting canceled by Mr. Woods on January 4, 1993.
  * January 5 to 19 - Several letters and phone calls with no response.
  * January 11, 1993 - Final Letter requesting collaboration and a January 19 response.
  * January 20, 1993 - Phone call by Mr. Woods terminating further discussion.

* Meetings with Bruno Friia and association representing the Western Montana Landlord's Association and the Missoula County Realtor's Association.
  * January 19, 1993 - MPA representatives meet with Realtors and request further meetings. Invitation declined.
  * January 24, 1993 - MPA responds to letter by Mr. Bruno Friia by amending Good Cause bill.

* Drug Dealer compromise - In response to landlord concern over issues involving potential drug dealing in mobile home courts, MPA added language to Good Cause bill. (preponderance of evidence 1/8/93)

EXHIBIT 4
DATE 2-5-93
HB 245

February 4, 1993

Statement in Support of HB 245, 321 and 422 before the House Business Committee, Friday, February 5, 1993.

Representative Steve Benedict, Chair.

Mr. Benedict and Members of the Committee:

I have read drafts of these proposed bills and would like to encourage a do pass vote on this legislation. Mobile home owners and tenants represent a significant percent of the work force in West Yellowstone. The lack of this kind of legislation, particularly good cause regulation, has placed several families in jeopardy as we speak. While this legislation may not resolve all of their problems, it will definitely help them now and in the future by giving them the same rights and protections afforded those who live in conventional housing

There has been some concern about how this law could affect developments in Montana's communities. In West Yellowstone the thing that is stifling mobile home court development is the cost of real estate and zoning. I can do nothing about the first and am trying locally to resolve the zoning problem for the future.

I fail to see how these proposed regulations will harm communities when many of the rights mobile home owners are asking for are presently enjoyed by tenants in conventional housing.

I further believe these acts may provide some stimulus to improve courts and parks around the state.

In conclusion, mobile homes are a significant housing resource to thousands of Montanans. Please do not deny these people the protections they need I ask for a do pass recommendation from your committee.

Sincerely,

Ken Davis
Town Council Member
West Yellowstone

EXHIBIT 4
DATE 2-5-93
HB 245

# A STUDY: HB #245

## COMPARISON OF HB #245's REASONS TO EVICT, VERSUS SIMILAR REASONS FOUND IN OTHER WESTERN AND CENTRAL STATES THAT ALREADY HAVE "GOOD CAUSE" PROVISIONS

(a) Non-payment of rent or late charges. *(HB #245)*

WISCONSIN, NORTH DAKOTA, NEBRASKA, MICHIGAN, MINNESOTA, IDAHO, NEVADA, COLORADO, CALIFORNIA.

(b) Violation of park rules. *(HB #245)*

WISCONSIN, NORTH DAKOTA, NEBRASKA, MICHIGAN, MINNESOTA, IDAHO, NEVADA, COLORADO, CALIFORNIA, NEW MEXICO, OREGON.

(c) Disorderly conduct on park premises that results in the disruption of the rights of others to the peaceful enjoyment and use of the premises , endangers other residents or park personnel, or causes substantial damage to the park premises. *(HB #245)*

WISCONSIN, NORTH DAKOTA, MICHIGAN, MINNESOTA, NEVADA, COLORADO, CALIFORNIA, NEW MEXICO, OREGON.

(D) Conviction of the mobile home owner or tenant of the mobile home owner of a violation upon the park premises of a federal or state law, or local ordinance, when the violation is detrimental to the health, safety, or welfare of other residents or the landlord of the mobile home park; *(HB #245)*

WISCONSIN, NORTH DAKOTA, NEBRASKA, MICHIGAN, MINNESOTA, NEVADA, COLORADO, CALIFORNIA, NEW MEXICO.

or the landlord's documentation, by a preponderance of the evidence of a violation of a felony controlled substance offense.

CALIFORNIA

(e) Changes in the use of the land. *(HB #245)*

MICHIGAN, NEVADA, COLORADO, CALIFORNIA, NEW MEXICO, OREGON.

# LEXLEY ACRES – BELGRADE, MT.

12

EXHIBIT 4
DATE 2-5-93
HB 245

8/30/91

Lot rents will go up $10/mo. Oct 1st, '91.

I'm getting rid of all people who ignor the court rules. So far I've evicted 2 mobils 3 mos ago, 10 mobils 2 mos ago, & 4 mobils this last mo. I'm tired of fighting with people! There are a lot of good people at there with no place to go!

The biggest reason for eviction are:

- lawns not watered, mowed, + trimed
- Kids that do not stay out of their yards + lounge to the playground
- smelling in neat dogs + loose dogs
- overbuilding vehicles in the park
- not paying rent on time
- dumping garbage on the ground

Some mobiles are moving + some are being sold by Mobile Homing There are a lot of good people in the park + they don't deserve people next door who ruin the neighborhood.

Jerry Sumner
388-6095

Lefty Drama 2/26/92

It is time for spring cleaning. No outside storage! Get a shed!
I'm looking for the worst yard in each street to visit.

I'm also looking for:

- near dogs!! loose pets!! barking!! all dogs + cats must be registered + neutered!!
- junky yards (no outside storage or clothes against the mobile or blind.)
  Bikes + toys must be stored when not in use!!
- late rent payers after the 5th (eviction on the 10th)
- no dumping garbage on the ground instead of in the dumpsters! I will pay a reward for the name or license plate of persons dumping on the ground or people not from the park who use our dumpsters. Your name will not be used.
- no parking on the grass + no junk vehicles
- no late cabs in the dumpsters (must be full + 2 days old)
- unlimited hours (must be allowed all 4 sides)
- unpainted wood (skirting, fences, porches, steps, + sheds) this spring
- any disturbing the peace + quiet of the park! no loud parties!!
- Children must stay out of other people yards who invited
  no B-B guns shooting into yards
  any damage to the playground area will result in your eviction!
  I will not put up with children who mess with other peoples stuff.

Let us all take pride in where we live and make this a better place!

P.S. If you find any rolls Kids might have placed them in the dumpsters. We don't need broken wrists!!

Greg Swenson 358-6095

4
2-5-93
HB 245

# TESTIMONY IN SUPPORT OF HB 321 and HB 422

by Rosanne Donahoe and Nancy Owens,
Mediation Consultants

Chairman and members of House Committee on Business and Economic Development:

A key part of HB 321 and HB 422 is the provision for mediating disputes that arise between landlords and tenants. Mediation saves money because it has proven effective and far less expensive than going to court.

We were both trained as mediators at the Dispute Resolution Center of Snohomish County in Washington State, which provides free mediation services to assist landlords and tenants in resolving their disputes under Washington's Landlord-Tenant Act.

Mediation is an alternative to going to court. In mediation a neutral third party, trained in mediation skills, assists the disputing parties to come to a resolution of their conflict.

Mediation is a "neighborly" process as opposed to an adversarial one. It allows parties to come together in a neutral atmosphere and talk to each other. Often the mediation setting will be the first time the disputants actually sit down face-to-face and tell each other what their problem is. The neutral atmosphere allows each party to "hear" the other. Valuable information about the dispute is exchanged. Mediation acknowledges the whole person --issues, interests, emotions, complexity-- and empowers people to work through their own hurts and grievances, listen to and acknowledge others' hurts and grievances, and arrive at a new place of both issue resolution and relationship. During mediation the parties develop a mutually acceptable settlement. A successful mediation provides emotional/psychological satisfaction as well as substantive satisfaction.

Mediation works. Mediated settlements have a better track record than litigated settlements. Seventy-one percent of mediated settlements are followed (actually carried out by the parties), compared to only 34% of litigated settlements, which suggests that when parties make their own agreement they can live with it.

Mediation saves money for everyone because it avoids the costly process of going to court.

For 11 years Washington State has had a Landlord-Tenant Act that requires disputants to go to mediation before going to court. The statewide Mobil Home Park Association has had such positive experiences, they now endorse the legislation providing for mediation. It saves the landlords money. It allows tenants to solve their problems without having to hire an attorney.

In summary, experience has shown that landlord-tenant legislation which provides for mediation can protect the tenant and the landlord, and avoid costly court challenges.

Rosanne Donahoe  Nancy Owens

EXHIBIT 4
DATE 2-5-93
HB 245

# "GOOD CAUSE" EVICTION BILL

[DEVELOPED BY THE MEMBERS OF MONTANA PEOPLE'S ACTION AND MOBILE HOME COURT RESIDENTS STATEWIDE]

## WHY THIS BILL [HB 245] IS A COMPROMISE:

WE CHANGED THIS LANGUAGE TO ADDRESS AND SOLVE THE MAJOR CONCERN OF THE MT. LANDLORD'S ASSOCIATION. THE PRESIDENT, DAN WOODS, TOLD ME ON JANUARY 20,1993 THAT THEY SUPPORTED THIS CHANGE.

THE ORIGINAL BILL LANGUAGE WAS: (SEC.2,1d)

[THE 4TH OF FIVE REASONS TO EVICT WITH GOOD CAUSE]

"THE TENANT'S CONVICTION OF A CRIME, COMMISSION OF WHICH THREATENS THE HEALTH, SAFETY, OR WELFARE OF OTHER RESIDENTS OR THE LANDLORD"

THE COMPROMISE BILL LANGUAGE NOW READS:(SEC.2,1d)

[THE 4TH OF FIVE REASONS TO EVICT WITH GOOD CAUSE]

"CONVICTION OF THE MOBILE HOME OWNER OR TENANT OF THE MOBILE HOME OWNER OF A VIOLATION UPON THE PARK PREMISES OF A FEDERAL OR STATE LAW, OR LOCAL ORDINANCE, WHEN THE VIOLATION IS DETRIMENTAL TO THE HEALTH, SAFETY, OR WELFARE OF OTHER RESIDENTS OR THE LANDLORD OF THE MOBILE HOME PARK, OR THE LANDLORD'S DOCUMENTATION, *BY A PREPONDERANCE OF THE EVIDENCE* OF A VIOLATION OF A FELONY CONTROLLED SUBSTANCE OFFENSE. "

(ITALICS ADDED FOR EMPHASIS)

THIS LANGUAGE ADDRESSES THE MAIN CONCERN OF THE MT. LANDLORD ASSOCIATION'S OPPOSITION TO THE "GOOD CAUSE" BILL AS ARTICULATED TO THE RESIDENTS OF MOBILE HOME COURTS THROUGHOUT THE MANY MEETINGS IN 1992.

February 3, 1993

Mr. Chairman and members of the committee,

We the members of the Great Falls Mobile Home Court Residents' Association urge you to support Montana People's Action's Good Cause eviction legislation, HB 245. We, as an association are committed to improving the quality of our communities, so we support the five justifiable reasons for eviction proposed in this bill. Living in fear of unjust eviction is not conducive to building a more livable community. We, like the land owners, desire to get bad tennants out of our communities, and retain the good ones. We see a healthy balance in this bill as it protects us, the upright members of the community, and supports the removal of undesirable residents. We regret that our members were unable to attend this hearing. Please understand that many of us are elderly citizens who have difficulty traveling long distances. This fact makes us particularly suceptible to the horror of unjust eviction. We thank you for hearing our testimony, and for your support of this critical legislation.

Sincerely, members representing the Great Falls Mobile Home Court Residents Association

Sue Gonzales
Leonard T. Land
Frances Land
Otha Cockell
Floyd Nelson
Vera M. McCarty
Gayle Cockell
Paul Rasmussen
Larry Colwell

# Summary of State Charts

Mobile Home Statutes

| | |
|---|---|
| *Prohibits Tie-Ins* | 13 states: AL, AZ, CO, IL, MA, NEB, NV, NY, MI, OH, OR, VA, WI |
| *Written Lease Required* | 18 states: MI, NJ, AZ, CA, CO, CT, DE, ID, MD, MA, MN, NH, NM, UT, VT, VA, WA, WI; Must be offered—6 states: IL, IA, NY, OH, OR, RI |
| *1 yr. Lease Term* | 4 states: CT, FL, MD, OH; Must be offered—9 states: CA, DE, IL, IA, NY, OR, RI, WA, WI |
| *Automatic Renewal* | 7 states: AZ, CA, ID, IL, NJ, WA, WI; DE automatic renewal except by 60 day notice by landlord |
| *Prohibits Entrance Fee* | 17 states: CA, CO, CT, DE, ID, MD, MI, MN, NV, NM, NY, RI, UT, VT, VA, WA, WI: Allows limited entrance fee: AZ, IA |
| *Good Cause Eviction* | 28 states: AK, NJ, AZ, CA, CO, CT, DE, FL, ID, IL, ME, MD, MA, MI, MN, NE, NV, NH, NM, NY, ND, OH, OR, PA, RI, UT, VT, WI |
| *Prohibits Restriction in Choice of Vendor* | 24 states: AZ, CA (limited), CT, DE, FL, ID, IL, ME, MD, MA, MI, MN, NH, NJ, NY, OH, OR, PA, RI, UT, VT, VA, WA, WI |
| *Prohibits Unreasonable Rules/Regs.* | 21 states: AZ, CO, CT, DE, IL, IA, ME, MD, MN, MA, NE, NV, NH, NJ, NM, NY, OH, PA, RI, UT, VA |
| *Prohibits Retaliatory Eviction* | 21 states: AZ, DE, FL, ID, IL, IA, MD, MA, MN, NE, NH, NJ, MN, NY, OH, OR, PA, RI, VA, WA, WI |
| *Allows Subleasing* | 6 states: AZ, ID, NE, NV, NY, VT |
| *Allows Sale of Home in Park* | 28 states: AZ, CA, CO, CT, DE, FL, ID, IL, IA, ME, MD, MA, MI, MN, NE, NV, NH, NM, NY, OH, OR, PA, RI, UT, VT, VA, WA, WI |
| *Allows Assignment of Lease* | 5 states: CT, DE, FL, NY, MA |
| *Allows For Sale Signs* | 9 states: AZ, CA, FL, ME, MN, NV, NH, OR, UT |
| *Relocation Expenses* | 9 states: AZ, CA, FL, ME, MN, NV, NH, OR, UT |
| *Right of 1st Refusal* | 6 states: CT, DE, FL, MA, NH, VT |
| *Buyout at Fair Market Value* | 2 states: FL, MI |
| *Prohibits Exit Fees* | 15 states: AZ, DE, FL, ID, IA, MD, MI, MN, NE, NV, NY, PA, UT, WA, WI |
| *Notice of Change of Use* | 20 states: AK, AZ, CA, CO, CT, DE, FL, ID, MD, MA, MN, NV, NM, OH, OR, PA, RI, UT, VT, WA |
| *State Remedies* | 18 states: AK, CT, DE, FL, ID, IN, MD, ME, MA, MI, MN, NV, NH, NY, ND, RI, UT, VA |
| *Private Remedies* | 22 states: AZ, CA, CO, DE, FL, ID, IL, IA, ME, MA, MD, MI, MN, NE, NM, NV, OH, OR, PA, RI, UT, WA |
| *5 yr. Lease* | 1 state: CA (provides for long term leases) |
| *Fees Disclosed in Lease* | 18 states: CA, CT, DE, FL, ID, IL, ME, MA, NV, NJ, NM, NY, OH, OR, PA, RI, WA, WI |
| *Prohibits Guest Fees* | 9 states: AZ, CA, CT, MD, MN, NV, PA, VA, WA |
| *Prohibits Pet Fees* | 3 states: CA, NV, NH |
| *Other Fees Prohibited* | 23 states: AZ, CA, CO, CT, DE, FL, IL, IA, ME, MA, MI, NE, NV, NH, NJ, NM, NY, OH, PA, RI, VT, VA, WA |
| *Non-Payment of Fees and Late Charges Grounds for Eviction* | 14 states: CA, CT, DE, ID, IN, ME, MI, NV, NH, ND, RI, UT, WA, WI |
| *Cure Provision* | 20 states: AZ, CA, CT, DE, FL, ID, IA, ME, MA, MN, NV, NH, NY, OH, OR, PA RI, UT, VA, VT |
| *Requirement of Court Procedure Before Eviction* | 5 states: IL, MD, NM, RI, UT |
| *Rent Withholding/Receivership* | 5 states: DE, FL, NH, OH, VA |
| *Limited Right to Evict for Non-Compliance with Rules* | 6 states: AZ (no eviction), IA, MD, MA (30 day notice), OH (material violation), PA |
| *Adequate Time after Eviction to Sell Home* | 2 states: MA, MN |
| *Park Owner Right to Veto New Purchaser* | 25 states: AZ, CA, CT, DE, FL, ID, IL, IA, MD, MA, MI, MN, NE, NV, NH, NJ, NM, NY, OH, OR, PA, RI, UT, VT, WA |
| *Outlines Landlord's Maintenance Obligations* | 14 states: AZ, CT, DE, FL, IL, MD, NE, NV, NM, ND, OH, OR, VA, WA |
| *Warranty of Habitability* | 2 states: ME, NY |
| *Prohibits Consideration of Age of Mobile Home Upon Sale* | 6 states: AZ, CA, DE, MI, WA, WI |
| *Utility Provision* | 15 states: AZ, CA, FL, IL, MD, ME, MA, MI, MN, NE, NH, RI, UT, WA, WI |
| *Specific Rules Prohibited* | 16 states: AZ, DE, FL, IL, IA, ME, MD, MI, NM, NH, NJ, MN, NY, OR, PA, UT |
| *Waiver of Rights Provision Prohibited* | 22 states: AZ, CA, CO, CT, DE, FL, ID, IL, IA, ME, MD, MI, NE, NV, NJ, NM, OH, PA, RI, UT, VA, WA |
| *Preemption of State Laws* | No states |



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2-5-93
HB 245

EXHIBIT 9
DATE 2-5-93
HB 245

MONTANA STATE LEGISLATIVE COMMITTEE

AARP

Bringing lifetimes of experience and leadership to serve all generations.


CHAIRMAN
Mr. Gene Quenemoen
606 Frank Road
Belgrade, MT 59714
(406) 388-6982

VICE CHAIRMAN
Mr. Robert J. Souhrada
915 13th Street West
Columbia Falls, MT 59912
(406) 892-4642

SECRETARY
Mrs. Florence R. Coslet
312 Cook Street
Lewistown, MT 59457
(406) 538-2674


AARP Testimony
Mobile Home Bill HB 245
February 5, 1993

Mr. Chairman & Members of the Committee:

For the record I am William (Bill) Olson and I am a member of the State Legislative Committee for The American Association of Retired Persons(AARP). AARP has approximately 110,000 members in the State of Montana _ one in every eight persons in the state. Our members are 50 years of age and older, and many(number unknown) reside in Mobile Home Parks.

AARP policy, both Nationally and Statewise, is that states and localities have an essential role to play in expanding housing options for older persons and protecting their rights as housing consumers. Identifying regulatory barriers and developing action plans to improve housing conditions are included in action to be taken by states and localities.

AARP advocates that legislation be enacted to protect the rights of older(as well as younger) mobile home owners to include the following:

1. Protection against unfair evictions.
2. Requiring written long term leases.
3. Posting of and tenant participation in formation of Park Rules
4. Prior notice of Rent and Fee increases.

MONTANA STATE LEGISLATIVE COMMITTEE

AARP

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Columbia Falls, MT 59912
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Mrs. Florence R. Coslet
312 Cook Street
Lewistown, MT 59457
(406) 538-2674

5. Full disclosure in plain English of Rents, Fees Charges and assessments.

AARP's state legislative committee for Montana believe that HB 245 address's many of these issues and urges its passage.

Thank You.

William Olson

MontPIRG
Montana Public Interest Research Group
360 Corbin Hall ❑ Missoula, MT 59812 ❑ (406)243-2907

EXHIBIT 6
DATE 2-5-93
HB 245

2/3/93

Testimony For House Bill 245

Chairman Benedict and Members of the House
Business and Economic Development Committee:

For the record, my name is Linda Lee, Executive Director of MontPIRG. The Montana Public Interest Research Group (MontPIRG) is a non-profit, non-partisan research and advocacy organization located on the University of Montana campus. MontPIRG represents 2500 student members and 1500 community members statewide.

We support House Bill 245 because the bill provides protection for mobile home owners. As the current landlord tenant law is written, people who rent space in mobile home courts have little recourse when given a thirty day notice to vacate.

MontPIRG receives an average of 25 tenant-landlord calls per week on our consumer hotline. We have found mobile home owners to be in a particularly vulnerable position. A 30 day notice for termination of a rental contract for a mobile home space with no good cause is simply not acceptable for the security of a family.

Considering the housing crisis we are now experiencing in Missoula, the relationships between people acting as landlords and their tenants needs to be clarified and balanced.

Good Cause eviction would help alleviate and clarify some of the current housing problems encountered by a large portion of Montana's population.

Montana People's Action, with others, is taking a lead in creating an opportunity for improved housing in Missoula. I would like to refer to a letter you all have in your packet from Mayor Dan Kemmis and County Commissioner Fern Hart and the Missoula Housing Task Force. "The task force...endorses the concept of cooperation and involvement of tenants in managing the affairs of the developments in which they live. Experience nation-wide has shown that tenant involvement reduces maintenance costs and promotes stability over the long run. Good Cause legislation is a good step in that direction."

We strongly urge you to read the letter from the task force. And vote "do pass" on House Bill 245.

EXHIBIT 7
DATE 2-5-93
HB 245

TESTIMONY ON HOUSE BILL 245
BEFORE THE HOUSE BUSINESS COMMITTEE
FRIDAY, FEBRUARY 5, 1993

My name is Greg Van Horssen. I represent the Income Property Managers Association and the Montana Landlords Association. Together these groups have over 1500 members in Montana and administer over 50,000 rental units in the state. Members of the IPMA and the MLA are dedicated to providing quality and affordable rental housing to Montana residents.

The IPMA and the MLA oppose House Bill 245. Prior to getting into the reasons for these groups opposition to the Bill, it is important to recognize a few important points about an individual's decision to provide housing in the form of a mobile home park.

The operator of a mobile home park, it should be noted, operates a business. Presumably, that individual has decided to develop the mobile home park on his or her own or has purchased an on going enterprise. Built into the decision to provide mobile home space by developing or purchasing such a business is the assumption that the mobile park owner will have control over the important business decisions surrounding the operation of the enterprise.

House Bill 245 destroys all assumptions that the owner of this particular type of business will be able to control the critical business decisions. The Bill represents a serious attack on a mobile park operator's ability to operate a business and, just as importantly, makes it virtually impossible for the owner to guaranty a pleasant environment for all tenants.

Not only does House Bill 245 limit a property owner's ability to terminate a tenancy, it also places unworkable procedural requirements

on tenancy termination. The onerous procedural requirements found in HB 245 result in a tremendous windfall to those tenants who may be in violation of the rental agreement and will actually work to the detriment of good tenants who understand the necessity of living in harmony with their neighbors in the park.

To begin with, HB 245 provides that an owner can terminate a tenancy for the non-payment of rent. That makes sense. An individual's failure to pay rent is a breach of contract and also impacts the owner's ability to realize the positive cash flow necessary to maintain the park. But HB 245 does not stop there. For, under HB 245, in order for the owner to terminate a tenancy for the failure to pay rent, the owner must first file with the renter four notices of late rental payments. And, importantly, only one late notice can be filed in a given month.

Therefore, the net effect of HB 245 is that the tenant must be allowed to go delinquent on rental payments for a period of up to four months before the owner has the statutory right to remove the renter. All of this at the expense of the owner. All of this having an impact on the owner s ability to pay for services and maintenance in the park.

It should be noted that a mobile home park is generally not recognized as a high profit margin enterprise. In order for the business to operate efficiently, indeed, in order for any business to operate efficiently, it is necessary that cash flow be predictable and payments be made in a timely fashion. To create in Montana the statutory right to withhold payment of rents for a period of three months could very possibly put many of these enterprises out of business and will undoubtedly serve to discourage any individual from developing additional housing.

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HB 245

House Bill 245 further provides that late payment of fees or non-payment of fees or late charges cannot be used as the basis of a termination. These fees are often charged to cover the necessary maintenance of common areas within the park. House Bill 245 provides no remedy to the owner if a tenant chooses not to pay maintenance fees and would require that the owner carry these fees for the non-paying tenant with virtually no recourse.

All of this, of course, would impact the owner's ability to provide services to park residents. Services that are well deserved by the residents, particularly those who have remained current on all rents and fees. If HB 245 is implemented and all residents are guaranteed three months of non-payment before termination, it is conceivable that the owner would be forced to raise the paying tenants' rents in order to cover the deficit. Clearly the result of raised rents is contrary to the intent of this type of bill.

The Bill also creates significant barriers to an owners ability to terminate a tenant who violates park rules. First, it requires that the termination for the violation of a rule can only take place if the rule is not unfair, unreasonable, or unconscionable. The problems created by this requirement should be evident. Obviously, the determination as to what is unfair or unreasonable is open to any number of interpretations. Whether a rule is unfair or unreasonable will always be open to dispute. Our own court system has a difficult time determining what might be unfair or unreasonable and this determination is many times not made without the full litigation of the issue. If HB 245 passes, any tenant who is evicted for a rule violation could claim that the eviction was improper because the rule was either unfair or unreasonable. In this

regard, HB 245 invites litigation which will raise the cost of operating the mobile home park and could lead to increased rental rates.

A second problem with HB 245 with regard to the termination for rules violations requires that the tenant must have notice of the rule for a period of at least 60 days. Under this language, a tenant who moves into the park (and necessarily receives notice of the rules) on January 1,of this year, could not be evicted for a rules violation until March 1. This is so even if the tenant began violating a rule the moment he or she occupied the property. I ask the committee to consider who would suffer most under these circumstances. Sixty days of free violation with no recourse. I submit that the other members of the park stand to have their lives disrupted significantly under this language of the bill.

Finally, to terminate for a rules violation, the owner must first determine that "the rule violation is likely to continue or recur." Mobile park owners may be many things, but they are not readers of the future. No one can tell whether a tenant will likely violate a rule in the future. This requirement alone makes it impossible for the owner to terminate for a rules violation. Again I ask the committee who suffers? The answer is that the other residents of the mobile home park suffer.

Subsection (b) on page 7, lines 5 through 9 allows all tenants to violate any park rule for a period of two weeks. Who suffers-- other residents.

Subsection (c) on page 7, line 12 allows all tenants to violate all rules up to three times each year. Who suffers-- other residents.

Section (4) on page 7, line 19 imposes on the landowner a six month waiting period before implementing any change in use. This

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HB 245

requirement could very well thwart any plans of the landowner to use the land for a different purpose.

New Section 3 beginning on page 8, line 25 would allow a rules violator who has been evicted to keep his or her trailer in the park for up to four additional months. Once an individual has been evicted from a park, the owner of the park and the remaining residents should be done with the evicted tenant. It is unreasonable to believe that someone who has been evicted for a rules violation would maintain the rental space and pay rents on that space for a period of four months when faced with rent payments and maintenance responsibilities elsewhere. Further, the lien created by HB 245 in this situation would likely be a remedy on paper only. This is because prior liens could exist on the home and it is possible that four months rent plus four months maintenance expenses (all of which will be incurred by the park owner) could easily exceed the value of the home.

For these reasons, the Income Property Managers Association and the Montana Landlords Association URGE A DO NOT PASS ON HOUSE BILL 245.

Thank you for your consideration.

Gregory Van Horssen

IPMA/MLA

# MONTANA LANDLORD-TENANT LAW

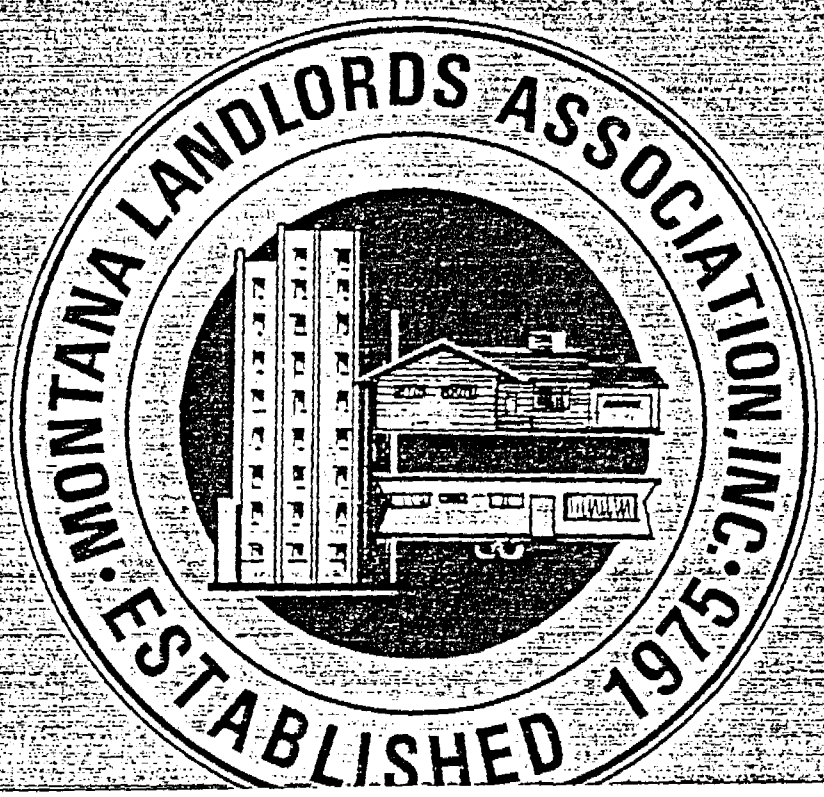


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EXHIBIT 9
DATE 2-5-93
HB 245

Billings, Montana
February 1, 1993

Mr. Steve Benedict, Chairman
House Business and Economic Development
Capitol Station
Helena, Montana 59620

SUBJECT: HB245 & HB321

Dear Mr. Benedict and Committee:

We the tenants in the Glentana Mobile Home Court and R.V. Park do hereby oppose House Bill 245 and House Bill 321 for the following reasons:

* Our lives and property are at risk, when the owners of an Mobile/RV park cannot exclude or evict unsavory tenants as quickly as posssible.

* 30 days is more than reasonable, to evict persons who are not paying their rent or acting in an irresponsible manner to the detriment of the court.

* Lawsuits and other costs of doing business raises expenses and causes landlords to raise rents and interferes with our spendable income.

* Rental agreements between landlord and tenant should be optional as to period of time and not force either party into a hardship by codifying length of time. Should a renter need to leave the court before the time was up...a penalty could be imposed under this house bill.

* These bills may cause hardships and shortages of mobile courts where tentants need to reside. Present laws are more than adequate and we must keep the number of mobile courts from diminishing.

Name of Tenants at 3455 Old Hardin Road, Billings, Montana. 59101

1 Veronica Robertson
2 Rochelle A Miller
3 Lisa M Tyler
4 Deanne Delay
5 Karen M. Little Light
6 Dennis Johnson
7 Valerie Kelley
8 Tricia McKay
9 Keith Tracy
10 Lisa McKay
11 Dick McKay
12 Valeria Houlihan
13 Bernie Norton
14 Laurette Stephens
15 M [illegible]
16 Cynthia L. Gott
17 [illegible]
18 Cheryl L Carlson
19 Mary Stoner
20 Katherine L Daniel
21 Ruth E Beckman
22 Norma J. Eldridge
23 [illegible]
24 Marilyn Kercher
25 Muriel Tate
26 Lora M. Allen
27 Ruben A. Rossler
28 [illegible]
29 [illegible]
30 Lyla Masters
31 Steve Weber
32 Floyd Summers
33 Margaret Eldridge
34 [illegible]

Billings, Montana
February 1, 1993

EXHIBIT
DATE 2/5/93
X L HB 245

Mr. Steve Benedict, Chairman
House Business and Economic Development
Capitol Station
Helena, Montana 59620

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Name of Tenants at 3455 Old Hardin Road, Billings, Montana. 59101

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EXHIBIT 10
DATE 2-5-93
HB 245

My name is Judi Reynolds, I am representing Mobile City Home Park located at 1805 Joslyn in Helena.

I came before this commitee four years ago, nervous, fearful and terrified. I come before you now, still nervous, fearful and even more terrified. Terrified that the AMERICAN DREAM is fast becoming the AMERICAN NIGHTMARE!

It is necessary to be here today to make an effort to protect the many fine residents of our mobile home park and ourselves. To protect all of us from legislation that if passed, will ADVERSELY effect mobile home park owners and tenants, in one way or another.

I have no idea where the group known as the MONTANA PEOPLES ACTION obtained their information, information they call facts! I do know however, that no one from their group or any similar group spoke with either my husband or myself. To my knowledge, no one in our mobile home park was contacted by this group.

Reading through the PROPAGANDA, entitled MOBILE HOME FACTS, it is clear that the information is riddled with inaccuracies and much of the information is simply NOT TRUE!! For instance, " MOBILE HOMES ARE NOT MOBILE." I have seen many mobile homes prepared for moving and moved in less than 12 hours. If the home is moved by a genuine, bonded mobile home mover, I have yet to see any damage done to the mobile home. I have seen mobile home park property damaged by some fly-by-nite mover, hired by our tenants, in a hurry to skip out without paying the back lot rent. Mobile homes come equipped with, tires, axels and wheels, YES MOBILE HOMES ARE MOBILE!

I am sick of hearing about the rights of the less fortunate, perhaps LESS WILLING! Those that do not wish to contribute to society. The rights of those that are able but refuse to work, those that refuse to invest in their own future and that of their families. I am not speaking of those that cannot work due to an honest to goodness disability.

Wether we like it or not, there are members of society that ARE dis-honest, lazy etc. People such as these have no qualms about not honoring a contract signed voluntarily, agreeing to abide by the rules set forth by the mobile home park owners. They have no qualms about not paying lot rent.

My husband and I are not power hungry dictators looking for reason to evict people from our park! Quite the contrary, eviction is a LAST RESORT! If we are forced to allow troublesome tenants to remain in the park for up to one year, no doubt, we will loose the lot rent for the entire time, and more importantly, it will put the safety and welfare of the other tenants in jeopardy. I am reminded of the crazed machete weilding maniac, threatening me and the tenants. As if the machete was not scary enough, he then brought out a 357 caliber pistol. Then there was the drunken male armed with his booze and his car doing about $15,000.00 in damage to his neighbors home, car ports, cars and of course park property. The same man was often drunk, went to the homes of his female neighbors, pounding on their doors, sitting on their porches and refusing to leave. To say they were terrified, is putting it mildly. Stories scuh as these go on and on AND ON!

" IT'S A LANDLORDS MARKET." At present we have two empty spaces. Three years ago, we had twenty six empty spaces and NO TAKERS!! My husband and I have spent the last three years buying fixer uppers just to fill the spaces. Had we not done so, I can honestly tell you I believe we would still have at least twenty empties. In the last month, I have had two inquiries about mobile home spaces.

My husband and I never have and never will use the so called "LANDLORDS MARKET" to un-fairly or un-necessarily raise the rent. We raised the rent in 1991 from $95.00 to a whopping $105.00 a month, where it is today. We didn't raise the rent to take advantage of anyone, but because we had not raised the rent in six years and we found it necessary to do so.

We operate a clean, safe and beautiful 235 unit mobile home park. My husband built the mobile home park from the ground up. There is 29 years of blood sweat and tears in the making and managing of Mobile City Home Park. OF COURSE, it is necessary to have rules and regulations for the mobile home park, just as it is necessary in everyday life! Our rules are designed to benefit everyone! I am reminded time and time again, by our tenants that the reason they choose to live in our park is that we do have a fair and equitable set of rules and we do our very best to enforce them. We simply cannot risk the ruin of our park indeed, our livelihood by allowing the tenants to manage the park! Would you allow strangers to come in and manage your farm, ranch, law office, store or whatever it might be that you spent a lifetime building? PRETTY SCARY, HUH ?

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HB 245

Nor are we money mongers, preying on the poor. I am extremely leinient to anyone having difficulty paying the rent. In fact to leinient at times.

The eviction process can be a long, costly affair to the mobile home park owners. Collecting delinquent rent through the court is a lot easier said than done!

I URGE YOU TO RECOMMEND A NO PASS ON HOUSE BILLS 245, 321 and 422.

Thank You.

Lee Reynolds
P. O. Box 972
Helena, Montana 59624

EXHIBIT 11
DATE 2-5-93
HB 245

Mr. chairman and members of the commitee, for the record, my name is Lee Reynolds. I am the owner of Mobile City Home Park in Helena, Montana.

The legislation before you, does not help the tenant, nor does it help the landlord. It will be detrimental to both the tenant and the landlord as well as the judicial system.

Section II of house bill #245, denies the mobile home park owner having at arms length transactions with the tenant, our customer, and the whole tenure of section II implies that mobile home park owners are conducting their business in a way that adversely effects the best interest of our customers.

I want to go on record, stating that this is absolutely not correct.

If these bills are the result of a vendetta created by a certin set of circumstances, there is no justification for the passage of these bills, when the net result of these bills, if passed, would no doubt have an adverse impact upon mobile home parks and their tenants, state wide.

Referring to house bills #321 and $422, I do not believe that mobile home park owners should be bound by the terms of the initial rental agreement as it relates to the subsequent new owners of the mobile home.

These bills are on the border line of taking title to our property.

Mobile home parks provide a service to the people of Montana that is created by necissity. Mobile home parks also contribute a substantial tax base to the state.

Mobile home park owners are subject to the rules already in place by the landlord-tenant act, as well as the federal mandated laws of the Environmental Protection Agency as administered by the State Department of Health and the city and county requirements. At present we are required to be licensed by the state and cities.

As mobile home park owners, we are aware of the needs of our tenants as a whole and strive to keep our parks clean and environmentally safe, as mandated by the laws already in place.

As mobile home park owners, we have an obligation to all of our tenants, to protect their peace and tranquility, to the best of our ability.

As strong supporters of human rights for everyone, we, as mobile home park owners will go the extra mile. WE CARE! Our support extends from the younger generation to the elderly, our utmost duty and strong sense of responsibility, is now, and always has been, to our tenants.

Our concern is only that mobile home park tenants, who do abide by the rules, rules developed with care and concern for the welfare of all, can continue to live in a clean, safe and comfortable environmentally safe mobile home park.

With the very best interest of the tenants, our frineds, the ones we care about, I recommend a " do not pass. "

Thank you,

Lee Reynolds

Lee Reynolds

mobile home communities, inc.

EXHIBIT 12
DATE 2-5-93
HB 245

February 3, 1993

Dear Sir,

We are the "on-site" Managers of Casa Village, a 465 space Manufactured Home Community located here in Billings. We are writing this letter to ask you to consider both sides of the issue regarding the need for House Bill No. 245, and House Bill No. 321. We believe that this proposed legislation has been hastily written without a full understanding that this legislation unduly infringes on the rights of the property owner, and begins to lead us away from free market economic solutions.

We would like to address the premises upon which this legislation was drafted. We do not believe that Montana Residents face a housing crisis. In Billings, Mt., we have not yet attained full occupancy. We are getting close, but there are still choices available for new and existing Residents. As we speak, plans are being dusted off for the development of additional spaces. This is the free and fair market answer to a shortage of available sites. New and more restrictive legislation will not encourage development, only economic incentive can accomplish this. With new development, comes competition, which is the only real way to keep rent levels in check. Our whole industry would welcome more development and competition. If you desire to help the consumer, we feel your efforts would be better spent working with local municipalities to create more favorable zoning for Manufactured Home Communities.

The notion that Residents are held captive to unreasonable rent increases is just not true. In the ten years that the current ownership has owned Casa Village, the rent level has gone from $150.00 to $198.00. This is an average increase of less than five dollars per year; in percentage terms, less than 3% per year. Even though we have the highest rent level in the market area, we have been able to maintain a higher than average occupancy level. People have chosen to live in our community, and have been happy with their choice. Yes, we have lost a few existing and prospective Residents to other communities with a lower rent structure, but that is the free market system at work.

mobile home communities, inc.

EXHIBIT 12
DATE 2-5-93
HB 245

Manufactured homes can and do move from one location to another. It is absolutely not true that moving a home causes substantial damage to the home. We have had Residents move from other communities into Casa Village. We have also moved many homes ourselves with no damage or loss in value. Residents do have options.

We have had many persons who have chosen to live in our community because we have very protective covenants. In fact the biggest complaint we hear is that we do not enforce the rules strictly enough. We try to work closely with those Residents who are deficient in their adherence to the rules, however this is a time consuming process. If we get to the point where things are not improving, we will resort to the no cause eviction process. We use this privilege very judiciously. It is not a good business practice to get the reputation of being unfair or treating the Residents poorly. Ours is a referral business, so we rely heavily on the goodwill we have created within our community.

The proposed legislation will make it more difficult to run a good business. It will inhibit our ability to quickly rectify problems caused by one Resident to the rest of the community. It will also add significantly to everyone's legal costs and clog the court system because of the lack of clarity in the proposed laws.

We would like to invite you to visit our community to investigate for yourself the need for such legislation. In fact we would welcome the opportunity to work with you and a representative Resident group to address real and perceived problems. We have always had an open door policy with regard to our Residents needs and concerns.

Please consider the concerns of the Property Owner. Our rights are as important to a thriving community as those of the consumer.

Sincerely,

Loyd & Ruthe Upton

Loyd and Ruthe Upton
Managers, Casa Village
Mobile Home Park

additional costs and these costs as in any other business can only come from the consumer, the tenant, by way of increased rent. The procedure is obviously going to be cumbersome and costly.

Finally, there are mobile home courts in Billings that also cater to RVS during the summer months where the RVS would park one night up to one week. Are they bound to execute a one year lease or month-to-month even though it is only for a short stay?

It obviously appears these bills should not be passed at this time in their present form.

Very truly yours,

Terry L. Seiffert
Attorney at Law

TLS:sh

cc: Sunny Hanson
Bruce Simon
Norm Mills

VERN L. FISCHER
P.O. BOX 1357
GREAT FALLS, MT. 59403
453-2918

DATE 2-5-93
HB. 245

BUSINESS COMMITTEE MEMBERS
CAPITOL STATION
HELENA MT. 59620

JANUARY 30, 1993

Dear COMMITTEE MEMBER:

PLEASE VOTE NO ON HB-245. This bill takes rights away from the property owner and severely restricts the landlords ability to provide proper protection for good tenants.

"CONVICTION OF TENANT OR PREPONDERANCE OF THE EVIDENCE" A landlord now has trouble getting Law enforcement officers to help with suspected drug dealings. If he doesn't have proof and says anything, he could be sued. If the D.E.A. makes a bust of a tenant, the landlord stands to lose the property to confiscation. A no win situation. Landlords need tenants or their business will fail, so they don't throw out tenants for just anything. But to demand a reason opens up a landlord to legal action, wasted time and money. Under current law (70-24-431) Tenants now have recourse to the courts if they feel they have been unjustly evicted. When a landlord can't get rid of a bad tenant, good tenants are hurt and they can and will move out.

A non paying tenant under this proposed bill could go without paying into four straight months before a landlord could proceed with an eviction following the current law which is made a part of this bill. At present time it can easily get to be 60 days just to receive a court ordered eviction, and this bill asks to have an additional 90 or 120. days, ridiculous!

Who decides? "UNFAIR, UNREASONABLE, OR UNCONSCIONABLE" Page 6 line 24 30 days notice is more than sufficient notice. (b) and (c) line 5 through 18 page 7 are contradicting and very unclear.

The landlord should give the tenant a 6 month notice of a change of use if the change would require the mobile home to be moved. But the land belongs to the landlord and should have no restrictions other than zoning, etc.

Selling a mobile home with in a park should be a part of the rental agreement. But a landlord should not put unrealistic demands on the seller or charge anything for selling the unit unless he acts on behalf of the seller.

If you look at the present landlord tenant act, most of the problems this bill addresses are adequately covered now. Good tenants and landlords will both be hurt by this bill. PLEASE VOTE NO ON HB-245. THANKS.

Respectfully yours,

Vern L. Fischer

VERN L. FISCHER

COLUMN ONE

L.A. Times Sat. 11/10/93

# Tenants Play the 'Stalling Game'

EXHIBIT 2-5-93
DATE 2-5-93
HB 245

■ Courts are flooded with fraudulent filings that help occupants delay eviction or withhold rent. Apartment owners, losing millions, face foreclosure—and renters end up paying a price too.

By JOSH MEYER
TIMES STAFF WRITER

The pitch was tantalizing to someone facing eviction from an apartment: fork over $150, have some legal paperwork filed and stay put rent-free for at least three months.

That was the deal Stanley Simon and his Tenants Rights Group offered to renter Louis Roche last March as the two talked in Simon's Northridge office.

"It's called a stalling game," Simon confided to Roche. "Let's not kid each other; it's a recession, there's no money. . . . I have to play games and I'll keep you in there."

Roche paid up and the stalling game began.

But the tenant from Panorama City was not like thousands of other apartment dwellers who have done business with Simon's group in recent years. Roche was a private investigator. And he was wearing a wire.

In September, police arrested Simon on suspicion of soliciting grand theft. He posted $50,000 bail and was back in business the next day. On Dec. 15, Los Angeles City Atty. James K. Hahn charged him in a 44-count criminal complaint with grand theft, making false statements to tenants and illegally practicing law.

Simon insists he has done nothing wrong. But authorities said they finally have gotten the goods on one of about 200 ringleaders of fraudulent "petition mills" in Los Angeles County, so named because of the number of legal filings they churn out on behalf of tenants who either want to stall their evictions or create phony allegations of poor living conditions so they can withhold rent.

**Please see RENTERS, A26**

**...tinued from A1**

...Three days later, after years of ...stly unheeded complaints by ...lords, the U.S. attorney's office ...nounced the indictment of 17 ...eople—including Simon and three ...her Tenants Rights Group em...yees—on federal bankruptcy ...d charges for allegedly run...ing eight such mills. The federal ...secutions are among the first in ...nation targeting the mills.

...here are many legitimate ...roups that protect tenants from ...scrupulous landlords, slum con...ns and unfair evictions. Those ...ps, such as the Legal Aid ...oundation of Los Angeles, are run ...y lawyers who make sure that ...ers receive adequate represen...n in the Municipal Court pro...ess known as unlawful detainer, ...n which a landlord seeks the ...essary court approval to evict a ...nt.

...n contrast, the mills, which ...ave proliferated throughout ...hern California, are run by ...lawyer opportunists who nev...contest evictions, but only seek ...delay them, authorities say.

...he petition mills target tenants ...n they are most desperate—...ind in rent or faced with evic...n—and charge them as much as ...00 during the eviction process, ...ey they normally would pay ...e landlord. Some tenants sign up ...cause they truly need help in ...ying or contesting an eviction, ...e others just want a free ride. ...oth cases, mills coach clients on ...ys to find insignificant prob... or create them, as an excuse ...ithhold rent and stay in the ...tment while a judge adjudi...

Because evictions must be court-approved, mills delay cases by filing a flurry of legal motions, including requests for a change of venue and a demurrer in which a tenant claims not to have been properly notified of an eviction.

No matter how frivolous, all claims require a hearing before a judge, which can take weeks or months to schedule. Despite promises by mills to the contrary, the vast majority of tenants are ordered to pay the back rent and are evicted anyway. Most mills further delay the eviction by filing for bankruptcy on tenants' behalf without their knowledge, often forging their signatures and concocting bogus Social Security numbers. Bankruptcy automatically protects a tenant from eviction for several more months, but the tenant ultimately pays a price.

"In the end, the tenants end up on the street without a dime," said Legal Aid lawyer Roderick Field. "It is a tragic situation."

By encouraging tenants to stay in their apartments without paying rent, the mills have been victimizing landlords as well, delaying as many as 1,500 evictions a month in Los Angeles County during the past few years. California landlords say they lost $270 million in 1991 in missed rent and legal fees.

Deputy City Atty. Ellen Pais said she suspects that mills are the number one source of apartment building foreclosures in the San Fernando Valley, and possibly in other areas.

"These people are teaching people to steal from others," said apartment building owner Karim Jaude. "And they are doing it in the name of protecting the tenants."

Jaude heads a group of small investors whose 18 Southern California apartment complexes that he says have been besieged by mills, including the one Roche claimed to live in. "Most of our investors are small-time people who put their life savings into this," Jaude said. "They could lose everything."

Five of those buildings are on the verge of foreclosure because of the Tenants Rights Group and other mills, Jaude said. In the building where Roche claimed to live, at 14800 Roscoe Blvd., 36 of 43 tenants refused to pay rent in the last year—some for 10 months or longer. Jaude said that most, if not all of them, had signed up with the ever-present mill representatives who still walk his hallways.

Since Simon's indictment, his storefront office in a Reseda Boulevard mini-mall has shut down, although authorities said his operation may have moved to another location. At 61, he faces a maximum of 35 years in prison and $1.75 million in fines in the federal case. Yet he insists he is only helping tenants stick up for their rights.

"It's a legitimate business," Simon said one day before his indictment. "I have done nothing wrong."

The mills first emerged in ... Angeles a decade ago. T... activity soared in 1989, and ... began spreading into Orange, ... Bernardino and other nea... counties. They also have sprou... in Atlanta; Orlando, Fla.; New... N.J., Cleveland and other m... cities.

"Obviously, it is a societal pr... lem," said Frank Szczebak, chie... the bankruptcy division for ... federal court system, where m... of the cases end up. "But nowh... is it anything like the magnitud... is in L.A."

Besides victimizing tenants a... landlords, such legal maneuveri... clogs up the overwhelmed muni... pal and federal court systems. ... many as 25% of the 85,000 or ... personal bankruptcy cases filed ... Los Angeles County last year we... the work of mills, said Marcy J. ... Tiffany, U.S. trustee for the ban... ruptcy court of the central distr... of California. Mills often file ban... ruptcies for each tenant occupy... an apartment and improperly ma... repeated bankruptcy filings on ... half of a tenant.

**Please see RENTERS, A...**

# RENTERS: Evading Eviction, Payments

ntinued from A26

Simon's case, authorities allege at he also helped defraud land-rds by telling tenants not to pay nt even when they had money d their living conditions were ie.

"No matter what, you're not ing to" pay, Simon tells Roche the tapes, which will be used as idence in Simon's city trial. ou're going to live there free."

And Simon assures Roche not to orry about credit. "There's no int," he says, "and there's noth-g to be nervous about."

Not true, authorities say. Most nants end up saddled with huge nounts of back rent due, legal es and court costs to pay, and a edit rating so tarnished that they nd it hard to get a credit card, car an or decent apartment for 10 ears.

People without the slightest nowledge of the eviction cases are lso hurt. When a mill changes a w digits of a Social Security umber to conceal a bankruptcy ling, the holder of the number nds up with major credit prob-ems.

That happened three years ago o salesman John Burriel of Gard-erville, Nev., and prevented him rom getting a car loan. A San edro man had used his Social ecurity number to file bankruptcy o stall his eviction. "I can't tell you ow frustrating it is," Burriel said. It is still plaguing me."

However, landlords apparently uffer the most. Virtually every ime they try to evict tenants, andlords say, mills get the names rom county courthouse rolls that ist all unlawful detainer actions. Tenants and their neighbors are hen inundated with letters, flyers, hone calls and visits. Even ten-nts who have not had troubles are olicited with the pitch that they oc can legally withhold rent. Mills lso take out newspaper and TV ds.

By law, tenants can withhold ent if living conditions are sub-tandard, but they are encouraged o put the money in escrow during he unlawful detainer process until judge makes a ruling.

One year ago in response to the mills, a state law went into effect barring private citizens from view-ing the courthouse unlawful de-tainer rolls for 30 days.

Although that law has helped, landlords say the mills remain active. "Now they just wait a month," said Venice landlord Nor-man Galper. "It takes a lot longer than that to evict someone."

FBI agents nationwide are in-vestigating another angle—illegal leaking of confidential tenant in-formation.

"Across the country, we have seen situations where low-level clerks in bankruptcy court and the trustees' offices can be bribed for this insider information," said Thomas R. Parker, assistant spe-cial agent in charge of the FBI's Los Angeles office. "Los Angeles has not been immune to that."

The mills typically call them-selves "typing," "eviction defense" or "renters' rights" services. One Inglewood firm boasts 24-hour emergency service, while another group guarantees seven months free occupancy, "no matter how far you are behind in your rent."

Tenants Rights Group flyers claim that "with years of experi-ence and thousands of clients, we are the leaders. Don't be misled by impostors who make wild claims they can't support."

After those flyers began luring tenants from Jaude's buildings, he hired an attorney, who in turn hired Roche to "sting" Simon by posing as a tenant.

Most of Jaude's tenants who signed on with the petition mills were evicted, Jaude said. Others, such as Maria Elida Cisneros, re-main.

Cisneros and her three children have lived in Apartment 39 for eight years. She said she only decided to complain about cock-roaches—and withhold her $833 monthly rent payments—last June, after a neighbor told her about a tenants rights group. Cisneros said she does not know the group's name, but pays a man $140 in cash each month when he knocks at the door. "Here in this building, a lot of people do this because the manager never listens," she said. "I was tired of saying, 'Please come fix.' "

Assistant manager Alfonso Her-nandez listened outside Cisneros' apartment one recent night and shook his head in disbelief, saying she never requested repairs until after signing up with a petition mill. "It just takes one tenant," he said, "and then everybody talks about it and it spreads."

Jaude said he makes repairs promptly, but that mills teach ten-ants to look for problems, or cause them, and then to hide the mills' involvement. Jaude said his inves-tors' group has lost $1.3 million during the past two years in legal fees and missed rent.

Jaude recently posted warnings about Simon at his complexes: "Don't be misled by his promises. Do not follow his advice. Do not lose your money."

Judges routinely award land-lords back rent and court costs. But most evicted tenants disappear without paying.

So Jaude now offers recalcitrant renters $1,000 or more to leave. Meanwhile, he said, negotiations with his banks and mortgage lend-ers have fended off foreclosures.

Roger Gleckmann has not been so lucky. After many of his tenants went to "unscrupulous legal com-panies" and stopped paying rent last spring, the bank foreclosed on his 36-unit Hollywood complex. "How do you support a building when no one is paying rent?" Gleckmann fumed. "How do you even maintain it?"

TRW REDI Property Data, which tracks foreclosures, reports that at least 96 Los Angeles County apartment complexes went into foreclosure in 1992, up from 24 in 1991. Real estate experts say other factors are at work too, including the recession that is taking its toll on tenants, boosting apartment va cancies.

But mills have been a major factor in dozens of foreclosures, especially among those landlords barely breaking even, said Kather-ine Bergh, an apartment broker fo the Grubb & Ellis commercial re estate firm.

Last summer, all four of Jame Myers' tenants in Panorama Cit stopped paying rent, and he blam Tenants Rights Inc. All the tenan were evicted in November, but no before trashing the units, Myer said.

"It really has been a nightmare he said. "If this was the only renta property I owned in addition to m home, I would have lost the both."

Police search warrants alleg that Tenants Rights Inc. charge renters $140 a month, refused work with Myers so he co correct problems and then con spired to defraud him out of mor than $7,800 in rent. Alleged rin leaders Franco and Rhina Erit fled just days before polic searched the group's Sepulved headquarters, Los Angeles Poli Detective John Stieglitz said. wouldn't surprise me," he added "if they've reopened under anothe name."

The mills are easy to start an easy to move, authorities say A phone, a desk, some legal know edge and access to a copy machine is all that is needed.

Little has been done until re-cently to curtail mill activity.

A special fraud task force at trustee's office has been prob the mills for years. But until De cember, the U.S. attorney's offic in Los Angeles had prosecu only one mill operator, who convicted last May, and refused t comment on the problem befor the recent indictments despite s eral requests by The Times.

Some apartment owners and le gal activists complain that author ties could have been more agg sive in targeting the mills.

"It's a little late," legal advoca Field said.

Others say no amount of pr cutions will curb the mills. "It's lucrative," said bankruptcy truste Tiffany. "I don't care how man federal prosecutions you h you're spitting into the wind."

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KA 745

# The Petition Mill Process

SCOTT HARRISON / For The Times

e exterior of the Tenants Rights Group office in Northridge.

*Here are the steps a landlord must follow to have a tenant evicted, d some of the tactics that a petition mill can use to delay eviction for to a year:*

**NOTICE:** The landlord gives a tenant a three-day notice to pay the t or leave. The landlord files an unlawful detainer lawsuit in nicipal Court, which serves formal notice that the tenant is being victed for non-payment of rent or other reasons.

**ESPONSE:** The tenant must file an answer to the complaint within e days, after which landlord can request a trial, usually held at ast 20 days later. Petition mills file a series of legal motions on behalf of the tenant as a delaying tactic. They contend that the dlord did not properly notify the tenant, that the suit should be rd in a different courthouse and make other requests, which uthorities say are often frivolous and rarely granted but which equire a hearing to be scheduled before a judge.

**OURT RULING:** Once the judge rules that a tenant can be evicted, narshals are notified that they may post a notice on the tenant's oor giving the renter five days to vacate.

**ORE DELAYING TACTICS:** Before the marshal arrives, the mill ten claims an "Arrieta defense," in which the tenant contends that e landlord failed to identify all residents in the apartment subject eviction. Frequently, tenants say that a friend or neighbor has en living in the unit. Although steps were taken last year to event Arrieta defenses, mills continue to use the delaying tactic.

**ANKRUPTCY FILING:** Once all delaying tactics are exhausted in nicipal Court and a lockout date has been set, mills frequently file federal bankruptcy under the tenant's name, often without ling the tenant. That grants the tenant automatic immunity from ction until the bankruptcy case either is dismissed or the landlord eives a bankruptcy judge's permission to evict the renter. Nearly landlords are granted such permission, but the courts are so logged that it can take weeks or months just to get a hearing.

**FINAL ACTION:** Once a tenant's bankruptcy is exhausted and the landlord once again gets permission for eviction, the mill will put another of the tenants in bankruptcy. Often, mills put each tenant through the bankruptcy process several times, falsely stating on their petition that they have never declared bankruptcy before.

**RESULT:** Landlords pay thousands in court costs for each tenant ultimately evicted. And although the mills often promise that the tenant will never have to pay the rent and that their credit rating will never suffer, the tenant ends up evicted, owing back rent and court costs, and with a credit rating marred by a bankruptcy filing, which can take 10 years to erase. Because the bankruptcies are filed merely as a delaying tactic, the mills do not provide the required information and tell tenants not to appear at court hearings so the case is eventually dismissed. Nevertheless, the bankruptcy shows up on any cursory credit check.

**MORE INFORMATION:** Anyone with concerns about petition mills can call the Los Angeles city attorney's office, Consumer Protection Section, at (213) 485-4515, the U.S. attorney's office at (213) 894-0703, U.S Trustee's Office at (213) 894-6811 in Los Angeles and (714) 836-2691 in Orange County, the Legal Aid Foundation of Los Angeles' Eviction Defense Center at (213) 387-9011, the San Fernando Valley Neighborhood Legal Services at (818) 896-5211 and the Orange County Legal Aid Society at (714) 835-8806.

15
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HB 245

HB 245

MR. CHAIRMAN & MEMBERS OF THE COMMITTE

I AM LESLIE Mc BIRNIE OF WEST YELLOWSTONE, I CURRENTLY RESIDE AT THE OVERLAND WEST MOBILE HOME COURT IN WEST. I HAVE LIVED HERE 12 YEARS & OWN MY HOME. I WISH TO ADDRESS YOU ON THE CHANGE OF USE PORTION OF THE GOOD CAUSE BILL H.B. 245 NOW BEFORE YOU.

PRESENTLY THERE ARE 170 MOBILE HOMES WITH 450 + PEOPLE LIVING IN THEM, THIS IS ONE HALF OF THE TOWN POPULATION. WHEN MY COURT CHANGED OWNERS, OCT. 91 MYSELF & OTHER RESIDENTS WERE TOLD THAT THE NEW OWNERS WOULD BE BUILDING A MOTEL WHERE WE NOW CALL HOME. THERE ARE NO SPACES TO MOVE ANY HOME TOO, LET ALONE 9. AS CHANGE HAS BEEN TALKED ABOUT IN OTHER COURTS, & SEVERAL LAND OWNERS ARE ELDERLY, WE HAVE FORMED A CITY WIDE MOBILE HOME OWNERS ASSOCIATION IN ORDER TO WORK WITH CITY IN SOLVING OUR PROBLEMS. BUT THERE IS LITTLE ASSURANCE, THE DEVELOPING LAND OWNER WILL GIVE US THE TIME TO FIND AN ANSWER.

WHEN QUESTIONED BY VARIOUS TENNANTS ON THEIR PLANS, THE LANDOWNERS ANSWERS ARE VAGUE & EVASIVE AT BEST, EVEN DIFFERENT, DEPENDING ON WHO YOU ARE. THIS LEAVES LITTLE DOUBT IN MY MIND THAT WE WILL RECEIVE ANY MORE THAN THE REQUIRED 30 DAY NOTICE. WHEN I TRIED TO EXPLAIN MY ACTIVITIES ABOUT THE HOME OWNERS ASS. & THE FACT THAT THERE ARE NO PLACES TO MOVE TO, THEIR RESPONSE WAS " ITS NOT OUR PROBLEM" THIS AFFECTS 9 FAMILY'S, 25 PEOPLE, 2 BUSINESS OWNERS, & 13 OTHER BUSINESS' S THE TENNANTS WORK FOR, WE DO NOT ASK OR SEEK TO BLOCK DEVELOPMENT BUT TO BE GIVEN STRAIGHT ANSWERS AND A RESONABLE TIME FRAME TO WORK IN. IF THEY, THE LANDOWNERS WILL NOT WORK WITH US, UNDER PRESENT LAW THE TOWN & THE STATE WILL LOSE AT LEAST 5 FAMILY'S,.

ISLAND PARK IDAHO IS THE NEAREST LOCATION, & THAT INVOLVES LAND PURCHASES, IDAHO FALLS IS THE NEAREST RENTAL MARKET. THAT MEANS THESE WORKERS ARE GONE FOREVER, THEY CAN'T BE REPLACED AS THEY TOOK THEIR HOUSES WITH THEM

I THANK YOU FOR YOUR TIME & INTEREST

EXHIBIT 17
DATE 2-5-93
HB 245

January 26, 1993

Committee member
Dear ~~Landlord or Tenant~~,

The Western Montana Landlords Association has reviewed the proposed House Bill 245, "An Act Establishing Five Exclusive Grounds for Landlords' Termination of Rental Agreements with Tenants Who Own Mobile homes and Rent Space in Mobile Home Parks;" the Association has determined that such rules and regulations as are proposed will restrict the ability of Landlords to deal with "problem" tenants, that such restriction will be to the detriment of all other tenants as well as the Landlords, and that adding more rules and regulations to a relationship which is already burdened by statute with many requirements will ultimately have adverse effects to the community as a whole, especially because, overall, the proposed regulations will add another element of cost to the already overburdened Landlord-Tenant relationship, which will in turn, add another element of pressure to the upward spiral of rental costs.

One of the most significant impacts of the proposed takes away from Landlords the ability to provide for the safety of all tenants when the behavior of one tenant appears suggestive of criminal behavior on the part of the tenant. The proposed rule allows evictions for criminal behavior only if there is a conviction. Whereas Landlords may now respond by an eviction to the complaints of a tenant community about specific tenants who have high levels of visitor traffic at unusual hours, tenants who may display unusual predilections toward children, and other behavior which is suggestive of criminal behavior, under the new law an eviction must specifically identify the grounds for eviction, which prevents the Landlords from effectively responding to the safety concerns of a community unless there is an actual arrest and conviction (which can take as long two years).

The law appears to require, under such circumstances, the Landlord or neighboring tenants to make formal complaints to law enforcement authorities. Potentially, this subjects tenants who make such complaints to actions for slander by tenants engaged in suspicious behavior. For the tenant being evicted, rather than merely receiving an eviction notice, he or she is also being subjected -- as a requirement of the proposed law -- to police investigation and possible criminal charges in order to provide the basis for eviction.

The new rules considerably restrict the ability of landlords to manage their properties to their best use and effect. As each successive regulation restricts the ability of Landlords to manage their premises, fewer and fewer persons have chosen and will choose to enter this area of economic activity. As a result, over time, fewer mobile home spaces will be available, restricting the market, and making the remaining spaces that much more valuable, and hence, supporting a higher level of rents in the market. For instance, the new law makes it impossible for a Mobile Home Park owner to simply go out of the business. Although a provision exists which allows for "change in use", no provision exists for terminating tenancies if the Landlord has chosen to go out of business or change ownership interests. How many persons, if invited to enter a business from which they cannot escape, will choose to do so? The number of

landlords choosing to develop mobile home parks can only diminish as a result.

As older parks reach the end of the service life of their supporting facilities -- roads, sewer, electrical -- there will exist virtually no market for these businesses because they cannot be shut down and efficiently rebuilt to modern standards. Indeed, Landlords will be required under such circumstances to seek a "change in use" under the proposed regulations as the only way to implement any major changes which requires evictions. In other words, the proposed modifications will require such mobile home facilities to be shut down and their use converted to something else, rather than temporarily closed for rebuilding.

Many landlords have left the business since the passage of the original Landlord-Tenant Act in 1977, and this is in part responsible for the restricted number of rental units available in some parts of Montana. It is simply too much of a headache for many -- especially the more elderly landlords -- to comply with the intricacies of the current statutes, and too expensive to continually consult with legal counsel on daily matters. The proposed statutory modifications only add to the complexity and confusion of the current laws.

Tenants as well as Landlords are being overwhelmed by the complexity of the current statutory scheme, and this has been reflected by an explosion of landlord-tenant cases in Montana Justice Courts, with some courts reporting as much as 50% of their civil case load being Landlord-Tenant disputes under the Montana-Landlord Tenant Act. The proposed statute modifications prohibit evictions for violations of mobile home park rules if such rules are "unfair, unreasonable, or unconscionable." Such language is so ambiguous as to surely promote even more litigation, more pressure on the justice court system, and more expense to Landlords and Tenants alike, and more upward pressure on the costs of rentals.

Under the proposed statute, a tenant may be late up to 40% of the time, before a rental agreement may be terminated, and a written notice must be generated for <u>each</u> late payment, if the Landlord is to ultimately choose to evict because of continually late payments. For the Landlord who now overlooks a few late payments, that Landlord must protect his or her interests by specifically generating the notices, and further, this will modify many rental agreements to provide for the costs of issuing such notices, which will in turn increase the costs of rentals to Tenants who must pay such costs of such notices.

Under the proposed statutes, no "rule or regulation" of the mobile home park is effective on <u>any</u> tenant until 60 days after the beginning of their tenancy. It is doubtful that the drafters intended this to be true, but it is symbolic of the poor drafting of the proposal that this, as well as many other unintended effects, will result from this legislation. Further, an eviction may proceed for the violation of a rule or regulation only if "the rule violation is likely to continue or recur..." Landlords would be required to foresee the future under this proposed addition to the Montana Landlord-Tenant Act; in other words, eviction for violation of a rule or regulation of the mobile home court is effectively impossible under the proposed statute.

Another proposed addition to the Montana Landlord Tenant act proposes that mobile home owners, renting space and evicted because of non-payment of rent, may leave their mobile home on the lot for up to 120 days for the purposes of selling the mobile home, but that the

mobile home may not be lived in during that time. The statute appears to impose upon the mobile home court owner responsibility for the security of the mobile home during this period of no occupancy. An unoccupied mobile home is surely an attractive nuisance, and subject to vandalism, robbery, or other damage. The law makes no effort to protect the Landlord under these circumstances.

Besides several minor contradictions and confusion within the proposed statutes, as well as some poor drafting language which will have unintended consequences, it is clear that, overall, the ability of the tenant community to protect itself will be compromised by the landlord's inability to respond to articulated concerns of the community. It will increase the amount of paperwork directed toward tenants, and increase the costs of complying with such paperwork to both tenants and landlords. Overall, the proposed statutes decrease the advisability of persons to construct and operate mobile home parks, which will surely aggravate mobile home park space shortages over the long run.

We note further that the rationales for the proposed statutes, contained in the preamble to HB 245, are entirely unproven and unsupported allegations, and indeed may be entirely wrong.

Accordingly, the Western Montana Landlords Association has chosen to oppose HB 245 entirely, as it will not solve any problems which currently exist, and in fact appears to exacerbate all of the current landlord-tenant problems in Montana which already include increased litigation and litigation costs, additional paperwork for both sides, increased use of penalties and late fees, and overall, increased rents as a result. Please support us in these efforts.

Sincerely,

Ken Chilcote, President
Western Montana
Landlords Assoc.

EXHIBIT 17
DATE 2/5/93
HB 245

EXHIBIT 18
DATE 2-5-93
HB 245

# PETITION IN OPPOSITION TO HOUSE BILL 245 "EXCLUSIVE GROUNDS FOR EVICTION"

WHEREFORE, the Western Montana Landlords Association has reviewed the proposed House Bill 245, "An Act Establishing Five Exclusive Grounds for Landlords' Termination of Rental Agreements with Tenants Who Own Mobile homes and Rent Space in Mobile Home Parks;" the Association has determined that such rules and regulations as are proposed will restrict the ability of Landlords to deal with "problem" tenants, that such restriction will be to the detriment of all other tenants as well as the Landlords, and that adding more rules and regulations to a relationship which is already burdened by statute with many requirements will ultimately have adverse effects to the community as a whole.

That such effects include the inability of Landlords to provide for the safety of all tenants when their appears to be behavior suggestive of criminal behavior on the part of a tenant. The proposed rule allows evictions for criminal behavior only if there is a conviction. Whereas Landlords may now respond by an eviction to the concerns of a tenant community about specific tenants who have high levels of visitor traffic at unusual hours, tenants who may display unusual predilections toward children, and other behavior which is suggestive of criminal behavior, under the new law an eviction must specifically identify the grounds for eviction, which prevents the Landlords from effectively responding to the safety concerns of a community unless there is an actual arrest and conviction (which can take as long two years). The law appears to require, under such circumstances, the Landlord or neighboring tenants to make formal complaints to law enforcement authorities. For the tenant being evicted, rather than merely receiving an eviction notice, he or she is also being subjected -- as a requirement of the proposed law -- to police investigation and possible criminal charges in order to provide the basis for eviction.

In some Montana Justice Courts, Landlord-Tenant cases are approaching 50% of all civil justice court cases. It appears that imposition of even more rules than currently exist will exacerbate the litigation costs involved in rental situations [illegible] of operating costs for many landlords.

This document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Business & Ec. COMMITTEE BILL NO HB 245

DATE Feb. 5, 1993 SPONSOR(S) M. Kadas

PLEASE PRINT PLEASE PRINT PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING | SUPPORT | OPPOSE |
|---|---|---|---|
| Elaine Chilcote 4020 N. Ave Msla. | | | ✓ |
| Ken Chilcote II | | | ✓ |
| 14100 Hwy. 93 N, Missoula Sue + Ellie Olmpalik | | | ✓ |
| Dan Egeland P.O Box 303 Frenchtown, MT 59834 | | | ✓ |
| Ernest W. Johnson 4750 Sunnyside Ct Msla 59802 | | | ✓ |
| Hugh W Smith 7365 Boyd Msla 59801 | Myself | | ✓ |
| Ruby Faulkner Box 436 Alberton | Self | | ✓ |
| LOYD UPTON 422 S. 24th ST W BILLINGS, MT 59102 | | | ✓ |
| RUTHE UPTON 422 S. 24th ST W, BILLINGS, MT 59102 | | | ✓ |
| Earla Brien Billings, MT | ~~Self~~ Montana Mobile Court | | ✓ |
| Geoffrey Bayliss 2324 42nd ST Missoula | | | ✓ |
| Winton Watts 3433 Old Garden Rd Billings MT 59101 | | | ✓ |
| Glen Watts 3455 Old Hardin Rd Billings MT 59101 | | | ✓ |
| Pauline Engelmeier 3805 Sandpiper, Billings | Tenants of Lincoln | | ✓ |

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Business & Eec. COMMITTEE BILL NO HB 245

DATE Feb. 5, 1993 SPONSOR(S) M. Kadas

PLEASE PRINT PLEASE PRINT PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING | SUPPORT | OPPOSE |
|---|---|---|---|
| Bruno Ilis P.O. Box 2867 Mssla. MT 59802 | Tenants of Lambros | | ✓ |
| Delores Bayliss Box 3455 Missoula 59803 | | | ✓ |
| Landpiper Billings Mgt C Howard Lagerbeer | | | ✓ |
| John Wyman 11 6th St N. Great Falls, MT | Montana People's Action | X | |
| Wm W. Isbell | | | ✓ |
| Sandy Isbell | | | ✓ |
| William A. Isbell | | | ✓ |
| Jerry W Johnson | | X | |
| Kurt Spitzer | MHA | X | |
| Delsey D. Kaye | Golden Estates | ✓ | |
| Ben Steen | Golden Estates | ✓ | |
| GENE LONG | WHEEL ESTATES | | ✓ |
| Mike Peterson | | | ✓ |
| Ed Eaton | T-L Court - Helena | | ✓ |

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Business & Ec. COMMITTEE BILL NO. HB 245

DATE Feb. 5, 1993 SPONSOR(S) M. Kadas

PLEASE PRINT PLEASE PRINT PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING | SUPPORT | OPPOSE |
|---|---|---|---|
| Verna B Kessner | Income Prop. Management | | X |
| RICHEY O LINAFELTER | LINAFELTER ENTS MLA IPM | | X |
| Harold McDunn | E & M Court | | X |
| Judy Peterson | Buckeroo Ent | | X |
| Kathryn Hodges | Landlords Assn | | X |
| Dennis VanGenen | Landlords Assn | | X |
| Kathleen Workman PO Box 773, G+Falls Mt | Mt Landlord Assn | | X |
| Jim Warne PO Box 773, G+Falls Mt | Mt Landlords Assn | | X |
| Donna Shaffer | Ward 2 - Missoula | X | |
| Tammy Reynolds | Missoula 2005 Hwy 10 West | X | |
| Vi Meade | Pres. D. R. Mt | | X |
| Greg Van Horssen | IPM / MLA | | X |
| Ken L. Fouches | IPM's | | X |
| Chris Tillman | 242 N. Iowa | X | |

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

| | | | |
|---|---|---|---|
| Allen & Doreen Puckett | Mission Mt Park - Stevensville | X | |
| Linda Lee Linda Lee | MontPIRG | X | |

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Business & Ec. COMMITTEE BILL NO. HB-245

DATE Feb. 5, 1993 SPONSOR(S) M. Kadas

PLEASE PRINT PLEASE PRINT PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING | SUPPORT | OPPOSE |
|---|---|---|---|
| Ron Wagner | Target Range Missoula | X | |
| Belinda Rardin | 321 E. Main, Ste 300 HRDC Bzn | ✓ | |
| Robert Dunlap | 5820 N. Montana Helena MT 59601 | | ✓ |
| Judith Carlson | HRDC s | X | |
| Alice Campbell | 1618 Sherwood Msla. 59802 | X | |
| Percie Jones | Good Cause | X | |
| Les McBurney West Yellowstone | Good Cause | X | |
| Jim Fleischmann | MPA | X | |
| John Arvish | 8005 Hwy 10 W. #27 Missoula Village West MPA | X | |
| [illegible] | MSCA - MLIC | X | |
| Glenn Decker | Great Falls Riversedge M.H.P. | | X |
| Kathleen P. Decker | Great Falls Riversedge M.H.P. | | X |
| Steve Manderville | Mt Assoc Realtors | | X |
| Dan Shea | Montana Low Income Coalition | X | |

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

| | | | |
|---|---|---|---|
| James J. Lorran | Skyview MSLA | | X |
| Bob Cox Belgrade | Lexley Acres | X | |

(4-7)

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Business & Ec. COMMITTEE BILL NO. HB 245

DATE Feb 5-93 SPONSOR(S) M. Kadas

PLEASE PRINT PLEASE PRINT PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING | SUPPORT | OPPOSE |
|---|---|---|---|
| Leroy E. Rasmussen | Great Falls Trailer Terrace | | X |
| Donna K. Collins | 1625 North Ave W | X | |
| Bernice Mathes | 1700 Cooley #13 | X | |
| Joel Wasinger | Missoula Travois Village | X | |
| Mikellete Meade | Msla Target Range Trailer Court | X | |
| Phyllis Bolton - Frenchtown | mobile home residents | X | |
| Deb Wasinger Missoula | mobile home residents | X | |
| Sue Packard | Mobile home Park Target Range | X | |
| Brian Probst | Mobile home Park Target Range | X | |
| Maggie Hietala | " " " Target Range | X | |
| James Boone | Msla Mob. Hm. Pk. West | X | |
| Bruce Hietala | Target Range MHC Missoula, MT. | X | |
| Lloyd Anderson | Individual | X | |
| Bob Christensen | Leisure Park LOLO MT | X | |

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Terri Curtis
Allen White

Leisure Park 1010 MT
Msla Village Wis

X

5 of 7

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Business & Ec. COMMITTEE BILL NO HB 245

DATE Feb. 5, 1993 SPONSOR(S) M. Kadas

**PLEASE PRINT** **PLEASE PRINT** **PLEASE PRINT**

| NAME AND ADDRESS | REPRESENTING | SUPPORT | OPPOSE |
|---|---|---|---|
| Ronda Carpenter | Income Prop Owners & Mgrs | | X |
| Lee Reynolds | Mobile City Home Park | | X |
| Sue Clothier | MHA / Spruce Park | | X |
| James Hollandsworth | Lolo / Valley West Trl Ct | | X |
| Barbara J. Hollandsworth | " " " | | X |
| Ron Cundy | Lewistown Villa Homes | | X |
| James Duffield | Mobile City Homes | | X |
| Charles M Terrell | " | | X |
| Jane Rausch | Forest Park Covered Wagon, Bridger View Missoula MHPKS | | X |
| Bill Olson | AARP | ✓ | |
| Bethene Alderson | Mtn. Mobile Estates | | X |
| Dixie Johnson | Mountain Mobile Estates | | X |
| Don Roberson | Mountain Mobile Est | | X |
| Dan Wood | MT. Landlord Assn | | X |

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

| | | | |
|---|---|---|---|
| Wayne Fristo | Westview Pk MSLA | | X |

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Business & Economics COMMITTEE BILL NO. HB 245

DATE 2-5-93 SPONSOR(S) Rep. Kadas

PLEASE PRINT PLEASE PRINT PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING | SUPPORT | OPPOSE |
|---|---|---|---|
| Terry Dowdest | Missoula | X | |
| Eleanor Wend | Forest Park T.C. Bozeman | X | |
| Ted Vinton | Missoula | | X |
| Marie E Vinton | WMSSA. | | X |
| TED VINTON JR | MSLA | | X |
| RUTH CLEMENS | STEVENSVILLE MT. | X | |
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LEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS RE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

**REP. BACHINI** said the insurance industry and glass brokers would need to get together to decide what the definition of a glass broker is before the committee votes on it. **REP. SONNY HANSON** called the question. Voice vote was taken. Motion carried 15 - 3 with REPS. BACHINI, ELLIS AND CHAIRMAN BENEDICT voting no.

Motion/Vote: REP. BRANDEWIE MOVED HB 273 DO PASS AS AMENDED. **REP. MILLS** called the question. Voice vote was taken. Motion carried unanimously.

Vote: HB 273 DO PASS AS AMENDED. Motion carried 18 - 0.

## EXECUTIVE ACTION ON HB 556

Motion: REP. DAILY MOVED HB 556 DO PASS.

Discussion: REP. DAILY said HB 556 was thoroughly discussed and felt the issues didn't need to be addressed any further.

Motion/Vote: REP. BACHINI called the question. Roll call vote was taken. Motion failed 7 - 11. **EXHIBIT 10**

Motion/Vote: REP. SONNY HANSON MOVED HB 556 BE TABLED. Roll call vote was taken. Motion carried 10 - 8. **EXHIBIT 11**

Vote: HB 556 BE TABLED. Motion carried 10 - 8.

## EXECUTIVE ACTION ON HB 245

Motion: REP. DOWELL MOVED HB 245 DO PASS.

Discussion: REP. DOWELL moved to adopt the amendment and the gray bill. Paul Verdon explained the amendments and the gray bill to the committee. The question was called. Voice vote was taken. Motion carried unanimously. **EXHIBITS 12 & 13**

Motion/Vote: REP. DOWELL MOVED HB 245 DO PASS AS AMENDED. Roll call vote was taken. Motion carried 10 - 8. **EXHIBIT 14**

Vote: HB 245 DO PASS AS AMENDED. Motion carried 10 - 8.

## EXECUTIVE ACTION ON HB 321

Motion: REP. DOWELL MOVED HB 321 DO PASS.

Discussion: REP. DOWELL moved to adopt the amendments and the gray bill. REP. DOWELL explained the amendments to the committee and how they will affect the bill. **EXHIBITS 15 & 16**

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL DATE 2-15-93

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| REP. ALVIN ELLIS | ✓ | | |
| REP. DICK KNOX | ✓ | | |
| REP. NORM MILLS | ✓ | | |
| REP. JOE BARNETT | ✓ | | |
| REP. RAY BRANDEWIE | ✓ | | |
| REP. JACK HERRON | ✓ | | |
| REP. TIM DOWELL | ✓ | | |
| REP. CARLEY TUSS | ✓ | | |
| REP. STELLA JEAN HANSEN | ✓ | | |
| REP. BOB PAVLOVICH | ✓ | | |
| REP. VICKI COCCHIARELLA | ✓ | | |
| REP. FRITZ DAILY | ✓ | | |
| REP. BOB BACHINI | ✓ | | |
| REP. DON LARSON | ✓ | | |
| REP. BRUCE SIMON | ✓ | | |
| REP. DOUG WAGNER | ✓ | | |
| REP. SONNY HANSON, VICE CHAIRMAN | ✓ | | |
| REP. STEVE BENEDICT, CHAIRMAN | ✓ | | |
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HOUSE STANDING COMMITTEE REPORT

February 16, 1993



Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 245 (first reading copy -- white) do pass as amended .

Signed: _____
Steve Benedict, Chair

And, that such amendments read:

1. Page 1, line 13.
Following: "and"
Insert: "the potential for"

2. Page 1, line 16
Following: "may"
Insert: ", without supplying a reason,"

3. Page 1, lines 16 through 19
Strike: "for" on line 16 through "homes" on line 19

4. Page 1, line 21.
Strike: "upon failure to pay rent"
Insert: "if evicted unfairly"

5. Page 1, line 25.
Strike: "make rental payments"
Insert: "comply with the eviction"

6. Page 5, line 3.
Following: "rent"
Insert: "or late charges"

7. Page 5, line 11.
Following: "conduct"
Insert: "on the mobile home park premises"

8. Page 5, line 17.
Following: "violation"
Insert: "on the mobile home park premises"

Committee Vote:

9. Page 5, line 18.
Following: "ordinance"
Insert: ", when the violation is detrimental to the health, safety, or welfare of other residents or the landlord of the mobile home park,"

10. Page 5, lines 19 through 21.
Following: "violation" on line 19
Strike: remainder of line 19 through "park" on line 21
Insert: "the provisions of Title 45, chapter 9"

11. Page 5, line 25.
Following: "(a)"
Insert: "A mobile home owner or a tenant of a mobile home owner who fails to pay the overdue rent and late charges within 15 days of receiving notice of nonpayment of rent, as provided in 70-24-422, is subject to termination procedures as provided in 70-24-422.
(b)"
Renumber: subsequent subsections

12. Page 6, line 2.
Strike: "three"
Insert: "two"

13. Page 6, line 5.
Following: "late"
Insert: "rent"

14. Page 6, lines 8 and 9.
Following: "(ii)"
Strike: remainder of line 8 through "payment" on line 9
Insert: "additional charges for late rent payment must be reasonable and must be paid as provided in subsection (2)(a) unless the landlord and tenant agree otherwise"

15. Page 6, line 13.
Strike: "third"
Insert: "second"

16. Page 6, line 17.
Following: "agreement"
Insert: "and the provisions of subsection (3)(c) requiring a compliance period do not apply"

17. Page 6, line 21.
Strike: "unfair,"

18. Page 6, lines 21 and 22.
Strike: ", or unconscionable"

19. Page 6, line 22.
Following: ";"
Insert: "and"

20. Page 6, line 23.
Strike: ";"
Insert: "."

21. Page 6, line 24 through page 7, line 4.
Strike: page 6, line 24 through page 7, line 4 in their entirety
Insert: "(b) All rules must be written and must be given to all mobile home park residents who reside in the mobile home park and to all new residents upon arrival."
Renumber: subsequent subsections

22. Page 7, lines 5 through 11.
Following: "(b)" on line 5
Strike: remainder of line 5 through "to" on line 11
Insert: "Notice of and compliance with notice of rules violations must conform with the provisions of"

23. Page 7, line 13.
Following: "owner"
Insert: "who has complied with the rule within 14 days after receipt of a notice as provided in subsection (3)(b)"

24. Page 7, line 14.
Strike: "three"
Insert: "two"

25. Page 7, line 15.
Following: "period"
Insert: "and it is shown that the mobile home owner or tenant of the mobile home owner has violated that rule"
Following: "required"
Insert: "for the next 6 months"

26. Page 7, line 18.
Following: "70-24-422"
Insert: "without providing a 14-day compliance period"

27. Page 7, line 19.
Following: line 18
Insert: "(d) If a mobile home owner or tenant of the mobile home owner has been given two or more written notices of an alleged violation of a rule that would have a significant

adverse impact on the mobile home park or its residents within a 12-month period and it is shown that the mobile home owner or tenant of the mobile home owner has violated the rule, a written notice is not required for the next 6 months for a subsequent violation of any rule that would have a significant adverse impact on the mobile home park or its residents and the rental agreement may be terminated as provided in 70-24-422 without providing a 14-day compliance period. Only one notice a month may be given."

28. Page 8, line 18 through page 9, line 15.
Strike: line 18, page 8 through line 15, page 9 in their entirety

Renumber: subsequent sections

29. Page 9, line 17.
Strike: "Sections"
Insert: "Section"
Strike: "and 3"
Strike: "are"
Insert: "is"

30. Page 9, line 19.
Strike: "sections"
Insert: "section"
Strike: "and 3"

-END-

EXHIBIT 12
DATE 2-15-93
HB 245

Amendments to House Bill No. 245
First Reading Copy

Requested by Representative Kadas
For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 14, 1993

1. Page 1, line 13.
Following: "and"
Insert: "the potential for"

2. Page 1, line 16
Following: "may"
Insert: ", without supplying a reason,"

3. Page 1, lines 16 through 19
Strike: "for" on line 16 and through "homes" on line 19

4. Page 1, line 21.
Strike: "upon failure to pay rent"
Insert: "if evicted unfairly"

5. Page 1, line 25.
Strike: "make rental payments"
Insert: "comply with the eviction"

6. Page 5, line 8.
Following: "rent"
Insert: "or late charges"

7. Page 5, line 11.
Following: "conduct"
Insert: "on the mobile home park premises"

8. Page 5, line 17.
Following: "violation"
Insert: "upon the park premises"

9. Page 5, line 18.
Following: "ordinance"
Insert: ", when the violation is detrimental to the health, safety, or welfare of other residents or the landlord of the mobile home park,"

10. Page 5, lines 19 through 21.
Following: "violation" on line 19
Strike: remainder of line 19 through "park" on line 21
Insert: "the provisions of Title 45, chapter 9"

*{Amendment 10 was not included in the amendment list submitted Feb. 11 but language substantially the same appears in the text of the new draft submitted at the*

*same time.}*

11. Page 5, line 25.
Following: "(a)"
Insert: "A mobile home owner or a tenant of a mobile home owner who fails to pay the overdue rent and late charges within 15 days of receiving notice of nonpayment of rent, as provided in 70-24-422, is subject to termination procedures as provided in 70-24-422.
(b)"
Renumber: subsequent subsections

12. Page 6, line 2.
Strike: "three"
Insert: "two"

13. Page 6, line 5.
Following: "late"
Insert: "rent"

14. Page 6, lines 8 and 9.
Following: "(ii)"
Strike: remainder of line 8 through "payment" on line 9
Insert: "additional charges for late rent payment must be reasonable and must be paid as provided in subsection (2)(a) unless the landlord and tenant agree otherwise"

15. Page 6, line 13.
Strike: "third"
Insert: "second"

16. Page 6, line 17.
Following: "agreement"
Insert: "and the provisions of subsection (3)(c) requiring a compliance period do not apply"

17. Page 6, line 21.
Strike: "unfair,"

18. Page 6, lines 21 and 22.
Strike: ", or unconscionable"

19. Page 6, line 22.
Following: ";"
Insert: "and"

20. Page 6, line 23.
Strike: ";"
Insert: "."

21. Page 6, line 24 through page 7, line 4.
Strike: page 6, line 24 through page 7, line 4 in their entirety
Insert: "(b) All rules must be written and must be given to all mobile home park residents who reside in the mobile home park and to all new residents upon arrival."

EXHIBIT 12
DATE 2-15-93
HB 245

Renumber: subsequent subsections

22. Page 7, lines 5 through 11.
Following: "(b)" on line 5
Strike: remainder of line 5 through "to" on line 11
Insert: "Notice of and compliance with notices of rules violations must conform with the provisions of"

23. Page 7, line 13.
Following: "owner"
Insert: "who has complied with the rule within 14 days after receipt of a notice as provided in subsection (3)(b)"

24. Page 7, line 14.
Strike: "three"
Insert: "two"

25. Page 7, line 15.
Following: "period"
Insert: "and it is shown that the mobile home owner or tenant of the mobile home owner has violated that rule"
Following: "required"
Insert: "for the next 6 months"

26. Page 7, line 18.
Following: "70-24-422"
Insert: "without providing a 14-day compliance period"

27. Page 7, line 19.
Following: line 18
Insert: "(d) If a mobile home owner or tenant of the mobile home owner has been given two or more written notices of an alleged violation of a rule that would have a significant adverse impact on the mobile home park or its residents within a 12-month period and it is shown that the mobile home owner or tenant of the mobile home owner has violated the rule, a written notice is not required for the next 6 months for a subsequent violation of any rule that would have a significant adverse impact on the mobile home park or its residents and the rental agreement may be terminated as provided in 70-24-422 without providing a 14-day compliance period. Only one notice a month may be given."

28. Page 8, line 18 through page 9, line 15.
Strike: line 18, page 8 through line 15, page 9, in the entirety
Renumber: subsequent sections

29. Page 9, lines 17 and 19.
Strike: "Sections"
Insert: "Section"
Strike: "and 3"
Strike: "are" on line 17
Insert: "is"

EXHIBIT 12
DATE 2-15-93
HB 245

# PROPOSED FINAL DRAFT TO HB 245: [2/11/93]

INTRODUCED BY REPRESENTATIVE KADAS

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING FIVE EXCLUSIVE GROUNDS FOR LANDLORDS' TERMINATION OF RENTAL AGREEMENTS WITH TENANTS WHO OWN MOBILE HOMES AND RENT SPACE IN MOBILE HOME PARKS; AMENDING SECTION 70-24-103, MCA;

WHEREAS, Montana residents currently face a housing crisis that includes a lack of affordable housing and a lack of available mobile home park spaces;

WHEREAS, mobile homes are not "mobile" without substantial moving costs and the potential for substantial damage to the mobile homes;

WHEREAS, under 70-24-441, MCA, landlords of mobile home parks may without supplying a reason evict tenants who rent space in mobile home parks;

WHEREAS, if evicted unjustly, mobile home owners who rent space in mobile home parks are often forced to sell their mobile homes at a fraction of their costs and within an unreasonable amount of time (thirty days pursuant to 70-24-441, MCA) in order to comply with the eviction.

THEREFORE, the Legislature of the State of Montana finds it necessary to define justifiable and reasonable grounds on which landlords may evict mobile home owners who rent space in mobile home parks.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA

Section 1. [NO CHANGES to general definitions]

Section 2. Mobile Home Parks --- Grounds for Termination of Rental Agreement.

(1) A landlord of a mobile home park may terminate a rental agreement only by following the procedure set forth in 70-24-422 and only for one or more of the following reasons:

(a) non-payment of late rent or late charges, as set forth in subsection (2);

(b) violation of a park rule as set forth in subsection (3);

(c) disorderly conduct on the mobile home park premises that results in the disruption of the rights of others to the peaceful enjoyment and use of the premises, endangers other residents or park personnel, or causes substantial damage to the park premises;

(d) conviction of the mobile home owner or tenant of the mobile home owner of a violation upon the park premises of a federal or state law, or local ordinance, when the violation is detrimental to the health, safety, or welfare of other residents or the landlord of the mobile home park, or the landlord's documentation, by a preponderance of the evidence of a violation of a felony controlled

substance offense;

(e) changes in the use of the land if the requirements of subsection (4) are met.

(2) (a) A mobile home owner or a tenant of a mobile home owner who fails to pay the overdue rent and late charges within 15 days of receiving notice of nonpayment of rent, as provided in 70-24-422, is subject to termination procedures as provided in 70-24-422.

(b) A Landlord of a mobile home park may terminate the rental agreement of a tenant who has received more than two written notices of late rent payments within a 12 month period in accordance with this subsection:

(i) Only one late rent notice per month is included when calculating the total of late notices within a 12 month period.

(ii) Additional charges for late rent payment must be reasonable and must be paid as provided in subsection (2) (a) unless the landlord and tenant agree otherwise.

(iii) A payment is attributed first to delinquent rent payments, then to current rent payments and last to fees, charges, or late fees.

(c) On the date a tenant receives a second late rent payment notice within a 12-month

period, he is placed on six months probation. If the tenant pays rent late at any time during the probationary period, the landlord may terminate the rental agreement and the provisions of subsection (3) (b) requiring a compliance period do not apply.

(3) (a) A landlord of a mobile home park may terminate the rental agreement of a tenant who has violated a park rule or regulation only if:

(i) the rule is not unreasonable;

(ii) the rule was adopted in accordance with 70-24-311, and

(iii) All rules, including new rules, must be written and given to all mobile home park residents who reside in the mobile home park and to all new residents upon arrival.

(b) Notification of and compliance with rule violations must follow procedures pursuant to 70-24-422.

(c) If a mobile home owner or tenant of the mobile home owner who has complied with the rule after receipt of a 14-day notice required in subsection (3) (b) has been given a written notice of an alleged violation of the same rule on two or more occasions within a 12 month period, written notice is not required for a subsequent violation

of the same rule and termination of the rental agreement may proceed under the guidelines of 70-24-422. Only one notice per month may be given.

(d) If a mobile home owner or tenant of the mobile home owner has been given a written notice of an alleged violation of a rule that would have a significant adverse impact on the mobile home park or its residents on two or more occasions within a 12 month period and it is shown that the mobile home owner or tenant of the mobile home owner has violated the rule, a written notice is not required for the next six months for a subsequent violation of any rule that would have a significant adverse impact on the mobile home park or its residents and the rental agreement may be terminated as provided in 70-24-422 without providing a 14 day compliance period. Only one notice per month may be given.

(4) If a landlord plans to change the use of all or part of the land composing the mobile home park from mobile home lot rentals to some other use, each affected mobile home owner must receive notice from the landlord as follows:

(a) The landlord shall give the mobile home owner at least 15 days' written notice that the landlord will be

appearing before a unit of local government to request permits for a change of use of the mobile home park.

(b) After all required permits requesting a change of use have been approved by the unit of local government, the landlord shall give the mobile home owner and a tenant of the mobile home owner 6 months' written notice of termination of tenancy. If the change of use does not require local government permits, the landlord shall give the written notice at least 6 months prior to the change of use. In the notice, the landlord shall disclose and describe in detail the nature of the change of use.

(c) Prior to entering a rental agreement during the six-month notice period referred to in subsection (4) (b), the landlord shall give each prospective mobile home owner and tenant of the mobile home owner written notice that the landlord is requesting a change in use before a unit of local government or that a change in use has been approved.

Section 4. (NO CHANGES to codification)

Section 5. (NO CHANGES to coordination instructions)

-end-

EXHIBIT 14
DATE 2-15-93
HB 245

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE
ROLL CALL VOTE

DATE 2-15-93 BILL NO. HB245 NUMBER

MOTION: Rep Dowell moved DPAA.

Motion Carried 10-8

| NAME | AYE | NO |
|---|---|---|
| REP. ALVIN ELLIS | | ✓ |
| REP. DICK KNOX | | ✓ |
| REP. NORM MILLS | | ✓ |
| REP. JOE BARNETT | ✓ | |
| REP. RAY BRANDEWIE | | ✓ |
| REP. JACK HERRON | | ✓ |
| REP. TIM DOWELL | ✓ | |
| REP. CARLEY TUSS | ✓ | |
| REP. STELLA JEAN HANSEN | ✓ | |
| REP. BOB PAVLOVICH | ✓ | |
| REP. VICKI COCCHIARELLA | ✓ | |
| REP. FRITZ DAILY | ✓ | |
| REP. BOB BACHINI | | ✓ |
| REP. DON LARSON | ✓ | |
| REP. BRUCE SIMON | ✓ | |
| REP. DOUG WAGNER | | ✓ |
| REP. SONNY HANSON, VICE CHAIRMAN | | ✓ |
| REP. STEVE BENEDICT, CHAIRMAN | ✓ | |
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Senator Towe asked Mr. Dermott what was wrong with HB 216. Mr. Dermott said HB 216 shields individual competitors from the competitive process. Mr. Dermott said with the additional language, addressing individual competitors, would make it difficult for individuals to be aggressive in their operation because of the threat that someone could challenge their prices and take them to court. Mr. Dermott said that would stifle their willingness to compete.

Senator Bartlett asked Ms. Baker about the Lewis and Clark County v. Gasamat case. Ms. Baker told the Committee Wendy Wilson argued the case on the states behalf. Ms. Wilson was from the Lewis and Clark County Attorneys Office.

Closing by Sponsor:
Representative Grady said HB 216 would prevent companies from selling below cost. HB 216 would help keep small businesses in business. Representative Grady asked the Committee to amend HB 216 with the amendments Ms. Alexander proposed. Representative Grady urged the Committee to support HB 216.

## HEARING ON 245

Opening Statement by Sponsor:
Rep. Kadas, District 55, told the Committee HB 245 had been known as a good cause bill. Currently people who own mobile homes generally have them sited at a mobile home court, which is generally owned by someone else. The person who owns the mobile home rents a space on the court in order to place their home. Under current law, the owner of a court could evict the mobile home owner for no reason. HB 245 would provide fairness and security to the mobile home owner. HB 245 would limit the reasons for which a mobile home court could evict a person from a mobile home court. One of the big reasons for doing that was because it is not a simple thing to move a mobile home. Generally, once a mobile home was sited, it would stay there for its effective lifetime. Moving a mobile home is an expensive process, usually around $1,000. Therefore, it was not reasonable for a mobile home court owner to evict someone for no reason, and force someone to absorb all the cost associated with the move, for no good reason at all. Rep. Kadas HB 245 would help protect the mobile home owners. Rep. Kadas told the Committee that HB 245 had been through a lot of work and compromises. Rep. Kadas submitted amendments. (Exhibit #11) Rep. Kadas explained the amendments. Rep. Kadas said the amendments could be left out if the opponents did not agree. HB 245 gives five different reasons for evicting someone from a mobile home court. A person could be evicted for nonpayment of rent or late charges. If a person does not pay, the landlord would provide them with a notice. If a person does not pay within 15 days of the notice the person would be evicted. A person would be evicted if the person was habitual in their late payments of rent. If a person pays their rent late

three times in a 12 month period, the landlord could evict them. A person could be evicted if they violated the mobile home park rules. If a person violates a rule and does not alleviate the violation within 14 days of being notified of the rule violation, they would be evicted. If a person breaks a the same rule three times in a year they would be evicted. If a person breaks any rule three times in a year that would cause a significant adverse affect to the other people in the mobile home court, they would be evicted. A person could be evicted for disorderly conduct. Page 5, line 14 defines disorderly conduct. A person could be evicted if they were convicted of a federal, state, or local ordinance law that was detrimental to the health, safety, and welfare of the other residents, or if the landlord documented such a violation. A person could be evicted for a change in the use of the land, however, the landlord would have to give the occupants a six month notice. Rep. Kadas urged supported for HB 245.

Proponents' Testimony:
Bruce Hietela, resides at the Target Range Trailer Court, told the Committee the passage of HB 245 was critical to mobile home owners. Mr. Hietela urged support for HB 245.

Susan Gobbs, Montana Legal Services, told the Committee there were approximately 1,000 complaints a year from tenants who were evicted for no reason. HB 245 would address that problem and would give appropriate notice to landlords and tenants as to their rights and responsibilities. Ms. Gobbs urged support for HB 245.

Bea Steen read from prepared testimony. (Exhibit #12)

Leslie McBirnie read from prepared testimony. (Exhibit #13)

Alice Janke read from prepared testimony. (Exhibit #14)

Bill Olson, American Association of Retired Persons, read from prepared testimony. (Exhibit #15)

Ron McGraph, Co-Chairman for the Travios Village Association, submitted a document that represented the latest attempt by the management of the Travios Village to discredit and intimidate the members of their association. (Exhibit #16) Mr. McGraph urged the Committee to provide an immediate effective date upon the passage and approval of HB 245.

John Wymon, Great Falls Mobile Home Court Residents Association, urged the Committee to support SB 235.

Bob Chrestinsen, Lola, MT, told the Committee he was given an eviction notice because he joined a resident association. Mr. Chrestinsen said he was tired of being afraid to speak out about the problems in his court. Mr. Chrestinsen urged the Committee

to pass HB 245.

Stacey Jaffe, Target Range, asked the Committee to support SB 245. Mr. Jaffe told the Committee she was a battered women. Ms. Jaffe said she had to call the police one time, and the landowner told her if the police were called again she would be evicted.

Chet Kinsey, Montana Senior Citizens, Montana Low Income Coalition, supported HB 245.

Patrice Baldwin supported HB 245.

Cindy Moree submitted written testimony. (Exhibit #17)

Cheryl Burpee submitted written testimony. (Exhibit #18)

Nancy Collins submitted written testimony. (Exhibit #19)

Janet Salmonson supported HB 245.

Opponents' Testimony:
Mary McCue, read from prepared testimony. (Exhibit #20)

Gary Lenhardt, Operations Manager of Travois Village in Missoula, said since they purchased the mobile home court, $19,000 has been used for repairs and improvements of the court. Mr. Lenhardt told the Committee that he makes frequent inspections of the court and has revised the rules that applied to the court. Mr. Lenhardt said many allegations against the Travois Village were taken out of context. Mr. Lenhardt encouraged the Committee to vote against HB 245.

Greg Van Horsen, Income Property Managers and Owners Association of Montana, Montana Landlords Association, read from prepared testimony. (Exhibit #21)

Terry Cosgrove read from prepared testimony. (Exhibit #22)

Tom Hopgood, Montana Association of Realtors, opposed HB 245.

Dan Wood, Montana Landlord Association, told the Committee HB 245 would be detrimental to the Landlord Association and to good businesses. Mr. Wood strongly urged the Committee for a DO NOT PASS recommendation.

Andy Skinner opposed SB 245.

Craig Draper submitted written testimony. (Exhibit #23) Mr. Draper also submitted petitions. (Exhibit #24)

Christopher Maedje read from prepared testimony. (Exhibit #25)

Ed Eaton opposed HB 245.

Stan Cauthier submitted written testimony. (Exhibit #26)

Cecil Walborn read from prepared testimony. (Exhibit #27)

Montana Watts read from prepared testimony. (Exhibit #28)

Robert Dunlop, Helena KOA, opposed HB 245.

Vicki Wine, Manager for the King Arthur Park, submitted a petition. (Exhibit #29)

Questions From Committee Members and Responses:
Senator Towe asked Mr. Parker about the rule violations. Mr. Parker said if a person broke three violations in a 12 month period they would be evicted. HB 245 was crafted after 28 states which had good cause eviction legislation.

Senator Doherty asked Ms. McCrue if she objected to the language that mirrors current language in the Montana Tenant Act. Ms. McCrue said no.

Senator Doherty asked Ms. McCrue about her objections to HB 245. Ms. McCrue said mobile home owners were protected under current law. If a landlord evicts a tenant for no reason, the tenant could bring the landlord to court. Landlords have to provide utilities, keep the parks habitable, clean, and safe, and if the do not they could be subject to a lawsuit.

Senator Franklin asked Mr. Parker about the number of people who were being evicted. Mr. Parker said less than 1% of tenants were being evicted from courts and less than 1% of the owners were problem owners. Mr. Parker said the problem was not the number of people who were being evicted, the problem was that Montana does not have a good cause provision. Mr. Parker said without a good cause provision, tenants were threatened with an eviction if they complained about the court. Mr. Parker told the Committee that Montana needed a law that had a reason for eviction, without it people would be left open to threats.

Closing by Sponsor:
Representative Kadas closed.

## HEARING ON HB 396

Opening Statement by Sponsor:
Representative Whalen, District 93, said HB 396 would provide that information, with regard to a violation of the implied consent statute, would remain confidential criminal justice information until there was a DUI conviction. HB 396 would also amend the insurance statute to say a violation of the implied consent statute could not be used for the purpose of setting

# ROLL CALL

SENATE COMMITTEE Judiciary DATE 3-19-93

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| Senator Yellowtail | X | | |
| Senator Doherty | X | | |
| Senator Brown | X | | |
| Senator Crippen | X | | |
| Senator Grosfield | X | | |
| Senator Halligan | X | | |
| Senator Harp | X | | |
| Senator Towe | X | | |
| Senator Bartlett | X | | |
| Senator Franklin | X | | |
| Senator Blaylock | X | | |
| Senator Rye | X | | |
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EC9

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 12
DATE 3-19-93
BILL NO. HB245

GOOD MORNING MR. CHAIRMAN BILL YELLOWTAIL, VICE CHAIRMAN STEVE DOHERTY AND COMMITTEE MEMBERS.

MY NAME IS BEA STEEN. I OWN MY HOME AND HAVE LIVED IN THE GOLDEN ESTATES MOBILE HOME PARK HERE IN HELENA SINCE AUGUST OF 1983. I'M HERE TODAY BECAUSE I'M CONCERNED ABOUT THE POSSIBLE LAND USE CHANGE OF THE COURT I LIVE IN. WE HAVE BEEN TOLD THAT THE COURT HAS BEEN ON THE MARKET FOR THE LAST FEW MONTHS. WE ARE VERY VULNERABLE BECAUSE THE COURT IS LOCATED OUT NEAR THE WALMART WHERE THERE IS A LOT OF ACTION IN THE COMMERCIAL MARKET. WE COULD BE TARGETED FOR TARGET STORE RIGHT NOT. HOW IN THE WORLD WOULD WE BE ABLE TO GET OUR NOT SO MOBILE HOMES MOVED IN THE 30 DAYS PRESENT LAW ALLOWS. IF WE DON'T GET THEM MOVED THEY CAN CONFISCATE THEM. THAT'S JUST NOT FAIR OR JUST. THE LAWS WERE WRITTEN FOR THE RENTALS, SUCH AS TENANTS OF APARTMENTS, CONDO'S OR HOUSES. WE NEED LAWS THAT ADDRESS OUR OWN HOMES.

I REPRESENT MANY OTHER TENANTS, WHO WERE UNABLE TO BE HERE TODAY. MOST OF THEM ARE AFRAID TO SPEAK UP FOR FEAR OF RE-TALIATION, SO AM I, BUT I WILL NOT BE INTIMIDATED, EITHER. WE ARE CONCERNED ABOUT OUR RIGHTS AS MOBILE HOME TENANTS.

I AM HERE THIS MORNING TO ASK FOR YOUR SUPPORT OF HB 245. THE LANDLORD/TENANTS LAWS NEED TO BE REVISED TO INCLUDE THOSE OF US WHO PREFER TO OWN OUR HOMES RATHER THAN LIVE IN APARTMENTS BUT CAN'T AFFORD THE HIGH COST OF A CONVENTIONAL HOME.

BETWEEN 1980 AND 1990 79% OF ALL NEW RESIDENCES IN MONTANA WERE IN THE FORM OF MANUFACTURED HOUSING WITH MOBILE HOMES LEADING THE WAY, AS AFFORDABLE HOUSING. MOBILE HOME RESIDENTS ARE OFTEN TREATED DIFFERENTLY (NEGATIVELY, I MIGHT ADD) BECAUSE OF HOW THEY LIVE.

WE'VE HAD SEWER AND WATER PROBLEMS FOR OVER A YEAR AND TENANTS ARE AFRAID TO SPEAK UP ABOUT POOR CONDITIONS THAT THEY ENDURE--AGAIN FOR FEAR OF RETALIATION OR EVICTION.

WE **NEED** THIS BILL TO ASSURE US OF FAIR TREATMENT.

AS WE TOLD GOVERNOR RACICOT IN OUR DECEMBER MEETING---

WE ARE **NOT** AGAINST MOBILE HOME COURT OWNERS, FAR FROM IT, WE NEED THEM. **BUT** THERE ARE GOOD AND BAD ONES THE SAME AS WITH TENANTS. THE CRITERIA SET FORTH IN HB245 HELPS BOTH THE LANDLORD AND TENANT.

THIS BILL IS A COMPROMISE WITH THE LANDLORD'S ASSOCIATION, FOLLOWING SEVERAL MEETINGS WITH THEM.

WE ALSO BELIEVE RENT INCREASES SHOULD BE JUSTIFIED, NOT DOLED OUT SELECTIVELY--TARGETING SOME.

THERE ARE CURRENTLY NO LAWS SPECIFICALLY GOVERNING THE OVER 110,000 HOME COURT RESIDENTS STATEWIDE, THE MAJORITY OF WHOM OWN THEIR OWN HOMES.

LIKE ALL FEDERAL HOUSING CONTRACTS THE HELENA HOUSING AUTHORITY MUST SUPPLY "GOOD CAUSE" FOR EVICTION. AS GEORGE MARBLE, ADMINISTRATIVE OFFICER OF THE HELENA HOUSING AUTHORITY HAS STATED THE **GOOD CAUSE** FOR TERMINATION GIVES ALL PARTIES TO THE PROCESS THE SAME FOCAL POINT FOR ARGUMENT THROUGHOUT THE PROCESS, RELIEVING THE BANTERING-----ABOUT EXTRANEOUS ISSUES" HE ALSO SAID "I CAN FIND NO EVIDENCE THAT THE HOUSING AUTHORITY HAS EVER HAD TO GO TO COURT TO ENFORCE AN EVICTION".

ALSO, WE NEED THIS BILL TO BE EFFECTIVE UPON PASSAGE TO ASSURE WE WON'T ALL GET EVICTION NOTICES, FOR SPEAKING OUT IN SUPPORT OF THIS LEGISLATION.

28 STATES HAVE GOOD CAUSE LEGISLATION AND MONTANA NEEDS TO BE #29. PLEASE SUPPORT HB 245.

THANK YOU

EXHIBIT 12
DATE 3-19-93
HB 245

JUDICIARY COMMITTEE
EXHIBIT NO. 13
DATE 3-19-93
BILL NO. HB245

Mr. Chairman & members of the committee

I am Leslie McBirnie of West Yellowstone, I currently reside at the Overland West Mobile home court in West

In Oct. of 91 our court changed owners, the residents of the court were told then that the new owners intended to build a motel where we now call home. 2 years was the approximate date given. Currently their are not enough spaces available for the 9 mobiles to move to,as other courts have expressed interest in changing the use of their courts, mobile home owners of West have formed an association to work with city in order to alleviate the shortage of spaces, this takes time. We have no assurance the developer will allow us that time. If there is a problem in west trying to relocate 9 homes Imagine 10 or 20 times that number. having to move on a 30 day notice.

I cannot believe that some one doing a project of this size not being able to tell the people who are going to be affected in a reasonably timely manner the approximate date of start. As a change of use development in a mobile court is going to be a major project with considerable planning, courtesy demands a timely notice to the tenants who have been paying the bills . To say that a timely notice would squelch a sale, boggles the imagination.

I urge you to approve h.b. 245 as is, with no more changes.

I thank you for your time
Leslie McBirnie

HB245

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 14
DATE 3-19-93
BILL NO. HB245

Mr Chairman Members of the Committee
I Alice Jarke, live in Lesley Acres,
Belgrade Mt. & 100 unit trailer court. A place
where notes are taped to your door giving you
rules of the court. I refer to your packet page 11.
On March 92 we were given notice to evict
The reason, no room in Mr court need room
or we be charged. Our rent was paid, we had no
dog, 1 child.
We fought him in court for almost 1 year,
We paid our own lawyer costs amounting to $2000
Dared Powell our lawyer. During that time we
complained to the health dept about the garbage
which always overflowed on the ground, because
there are not enough dumpsters. Also a filthy
& septic hose was completely unattached
and had been for the last 6 yrs. Sewage
would back up on the lawn. The health dept
sent me a letter about it. He signed me
On Jan 93 we went to court
On Feb 4th he gave us written note to evict.
On March 7th the septic line again overflowed
on the lawn. The same septic day that we
had complained about July 8th 1992, 9 months
previous. S+U not fixed.
Then we talked to Mrs when we were
[illegible] we had a Tenants Assn. [illegible]

And it would be considered retaliation. He shouted No! No! No! and hung up. On Monday he did empty the septic tank. I called the health dept about the leaky cap. She said, "I have no authority to issue a fine but I will talk to him." On Wednesday he fixed it 4 months after we complained.

We need Flood Laws Eviction. Must Kill Pets. So that we can complain about sewage on the lawn without fear of eviction.

MONTANA STATE LEGISLATIVE COMMITTEE

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EXHIBIT NO. 15
DATE 3-19-93
BILL NO. HB245

AARP Testimony
Mobile Home Bill HB 245
March 19, 1993

Mr. Chairman & Members of the Committee:

For the record I am William (Bill) Olson and I am a member of the State Legislative Committee for The American Association of Retired Persons(AARP). AARP has approximately 110,000 members in the State of Montana — one in every eight persons in the state. Our members are 50 years of age and older, and many(number unknown) reside in Mobile Home Parks.

AARP policy, both Nationally and Statewise, is that states and localities have an essential role to play in expanding housing options for older persons and protecting their rights as housing consumers. Identifying regulatory barriers and developing action plans to improve housing conditions are included in action to be taken by states and localities.

AARP advocates that legislation be enacted to protect the rights of older(as well as younger) mobile home owners to include the following:

1. Protection against unfair evictions.
2. Requiring written long term leases.
3. Posting of and tenant participation in formation of Park Rules
4. Prior notice of Rent and Fee increases.

MONTANA STATE LEGISLATIVE COMMITTEE

AARP

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5. Full disclosure in plain English of Rents, Fees Charges and assessments.

AARP's state legislative committee for Montana believe that HB 245 addresse's many of these issues and urges its passage.

Thank You.

William Olson

MONTANA STATE LEGISLATIVE COMMITTEE

AARP

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5. Full disclosure in plain English of Rents, Fees Charges and assessments.

AARP's state legislative committee for Montana believe that HB 245 addresse's many of these issues and urges its passage.

Thank You.

William Olson

RESIDENTS RALLY AT TRAVOIS VILLAGE

# Owner stands by rules

By GINNY MERRIAM
and GARY JAHRIG
of the Missoulian

Residents of Travois Village mobile home park who are upset about the 11 pages of rules that will go into effect at the park Aug. 1 are a vocal minority who "want to make the park a pigpen," owner Jim Moore said in a telephone interview from his California office Monday.

"Most of the people in the park are extremely happy with the new ownership," Moore said.

Nevertheless, about 175 Travois residents turned up at a rally in the trailer park Monday evening to voice their displeasure with the new owner, his rules and the general operation and upkeep of the 270-unit complex.

"He's taken it upon himself to violate several of our rights," said Julie Marthaller, one of several residents who spoke at the rally. "This is still the United States of America, I think."

Signs proclaiming "Mr. Moore this ain't no California," "Don't make up laws" and "My dog is part of the family" were prevalent as speakers criticized rules banning gardens, dogs over 20 pounds and hanging laundry outside overnight.

City Council member Donna Shaffer said she was at the rally to represent the people of her ward. However, she admitted other than writing a letter to Moore, there was probably little the city could do to fight the new rules.

"I'm just here to try to find some logic in these rulings," Shaffer said.

Organizers of the rally said they hoped to sign up more members of the Travois Residents Association, which was formed last week.

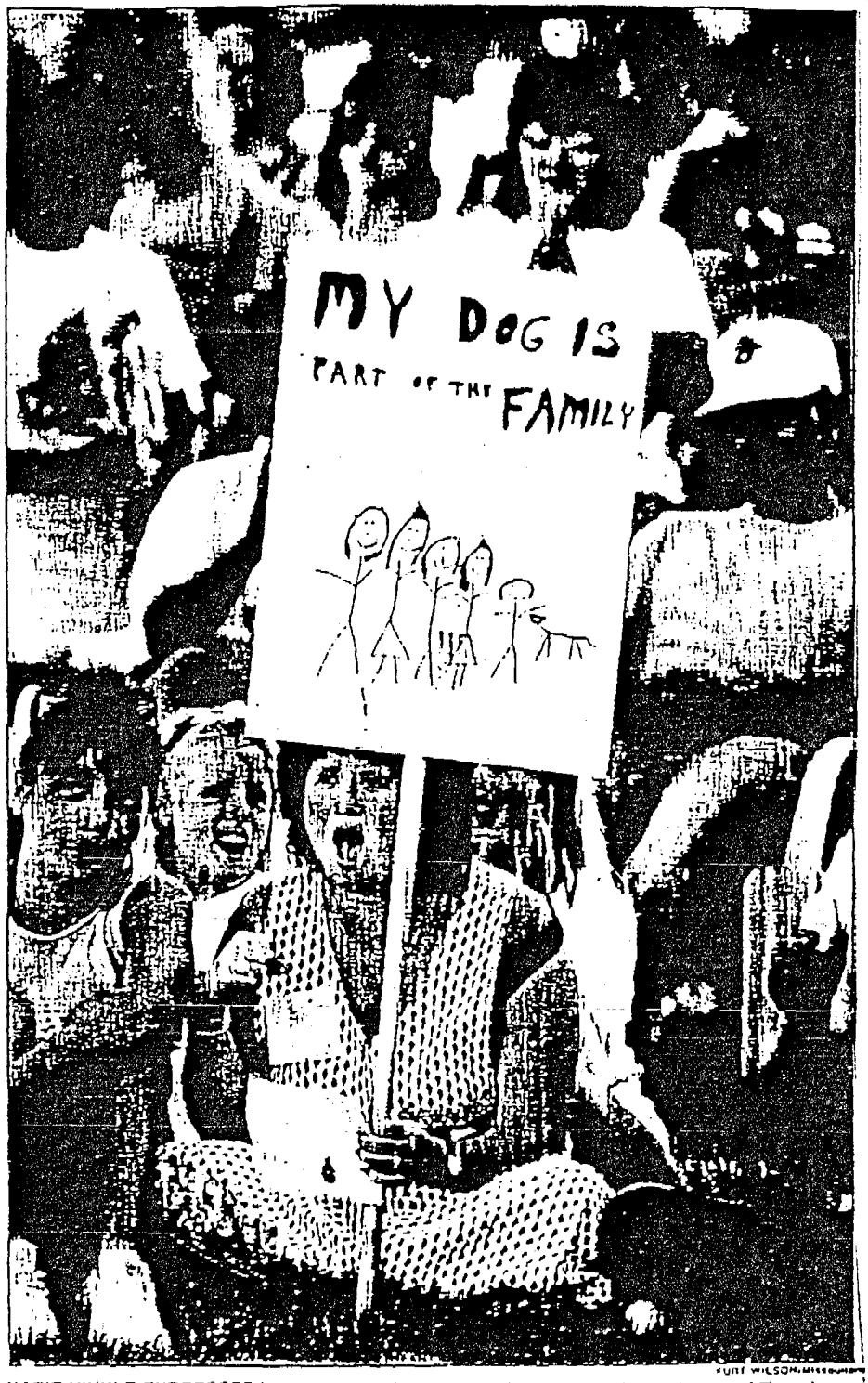
In an interview earlier Monday, Moore said most of the residents are rule-abiding and responsible, but "we've got some redneck people in there" who don't care about the appearance of the property and wouldn't be happy with any rules the owners wrote, he said.

Moore was responding to a Saturday Missoulian story about a Friday night meeting of about 20 park residents who are dissatisfied with the new rules and park maintenance.

Moore said the goal of the rules is to improve the park and make it a better place to live. Behind every rule is a reason, he said.

For instance, behind the ban on vegetable gardening: "They might like it, but to a lot of their neighbors, it's very unappealing and very unsightly," Moore said.

Also, tall corn could block a neighbor's view, he said. And vegetable gardening drives up the water bill, which the park pays.




KARIE HINKLE EXPRESSES her anger Monday evening during a rally for residents of Travois Village trailer park to protest new rules at the park. Among the rules is one that bans dogs over 20 pounds.

Behind the requirement that laundry be taken off clotheslines by sunset: "For one reason, it looks unsightly," said Gary Lenhart, Moore's general property manager, who was in on a conference call with the Missoulian.

"I don't see anything wrong with that," Moore said. "I think it's a good rule." Laundry left out overnight might then be left out longer and "you might have to look at someone's underwear for a week," he said. It might also be stolen.

Moore and Lenhart said the residents' charge that park manager Lee "Bud" Seiler was going underneath mobile homes to enforce the rule that only certain things could be stored there was untrue. They said residents could store whatever they liked under their trailers as long as it met safety codes and the skirting hid the objects.

In a lengthy conversation with the Missoulian, Moore and Lenhart addressed each rule residents complained about and repeatedly said they merely want to raise the standard of living for park residents.

"Most of the rules we have are for their benefit and protection, not mine," Moore said.

He said that when he bought the park in January, along with Farviews park, it had been neglected while in bankruptcy for four years.

Lenhart said he spoke with residents' association spokesman John Marthaller by telephone Friday.

"I told them next time I was in town I'd be happy to meet with them," he said.

Moore said if residents showed him how a change in any rule would benefit most of the residents, he'd revise the rule.

"We, for the life of us, can't see any problems with any of the rules for the majority of the

# HB 245: WHY AN IMMEDIATE EFFECTIVE DATE:

## DOCUMENT RECEIVED FROM TRAVOIS VILLAGE MANAGEMENT ON MARCH 15, 1993 - MISSOULA, MONTANA (SURVEY TOOK PLACE EARLIER)

I wanted to take a moment to ask you to complete the following survey. If you do not want to be involved, the person conducting the survey will kindly walk away at your request. If you elect to complete this survey, I want you to understand that this information may be evidence in a lawsuit.

Please answer the questions to the best of your ability and knowledge. I want to assure you that your residency will not be in jeopardy if you do not want to be involved. We have never retaliated, discriminated, or evicted someone based on their affiliation with the "Travois residents association" or "Montana peoples action. Thank-you for your time.

16
3-19-93
HB245

1.) DO YOU CONSIDER YOURSELF TO BE A MEMBER OF THE TRAVOIS RESIDENTS ASSOCIATION /MONTANA PEOPLES ACTION?

T.R.A_____

M.P.A_____

2.) DID YOU COMPLETE A MEMBERSHIP FORM?

YES NO

3.) DID YOU PAY A MEMBERSHIP FEE? IF SO HOW MUCH WAS THE FEE?

DO YOU PAY YEARLY OR MONTHLY DUES?

PAID MEMBERSHIP FEE- YES NO
COST OF FEE $_____
MONTHLY - YEARLY

4.) WHY DID YOU BECOME A MEMBER OF THE TRA/MPA?

_____

_____

5.) WHEN DID YOU LAST HAVE CONTACT WITH TRA/MPA?

_____

6.) HOW MANY TRA/ MPA MEETINGS HAVE YOU ATTENDED?

0-5 7-15 20 plus
6-10 16-20

7.) IN YOUR OPINION WHAT PURPOSE DOES THE TRA/MPA SERVE?

_____

_____

8.) ARE YOU AWARE OF THE CLASS ACTION LAWSUIT THAT TRA / MPA HAVE FILED AGAINST TRAVOIS VILLAGE MOBILE HOME COMMUNITY? YES NO

9.) THIS LAWSUIT MAY INCLUDE YOU AS A PART OF ITS CLASS ACTION. THE PERSON CONDUCTING THE SURVEY HAS A LIST THAT WAS SUBMITTED IN COURT AS EVIDENCE TO THIS CLAIM OF "CLASS STATUS". PLEASE REVIEW THE LIST AND SEE IF YOUR NAME IS ON IT. IF IT IS AND YOU WANT TO WITHDRAW YOUR NAME, PLEASE CALL JIM O'BRIEN AT 721-0660 . HE IS THE ATTORNEY FOR TRA/MPA.

10) IF YOU HAVE KNOWLEDGE OF THE LAWSUIT, DO YOU KNOW WHAT THE ALLEGATIONS ARE? _____

_____

11) ARE YOU IN AGREEMENT WITH THESE ALLEGATIONS? YES NO

12) HOW ARE YOU MADE AWARE OF THE STATUS OF THE LAWSUIT?_____

_____

13) ARE YOU IN FEAR THAT BY DISCLOSING YOUR MEMBERSHIP WITH TRA/MPA THAT YOU WILL BE EVICTED? YES NO PLEASE EXPLAIN._____

_____

14) DO YOU BELIEVE THAT MANAGEMENT/ OWNER HAS TREATED YOU FAIRLY?
YES NO

SIGNATURE _____ DATE_____

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 17
DATE 3-19-93
BILL NO. HB 245

MR. CHAIRPERSON AND COMMITTEE MEMBERS

MY NAME IS CINDY MOREE. I AM A STATE LEADER FOR MONTANA PEOPLES ACTION FROM TRAVOIS VILLAGE IN MISSOULA

WE BELIEVE THAT EVICTIONS FOR MINOR RULE INFRACTIONS MAY BE TOO SEVERE. MY PARK WAS BOUGHT BY AN OUT OF STATE OWNER. WHEN THEY TOOK OVER WE WERE GIVEN ELEVEN PAGES OF RULES AND REGULATIONS WITH MANY OF THEM BEING UNFAIR AND UNREASONABLE.

HERE IS A HYPOTHETICAL SCENARIO. SEE PAGE 14 IN YOUR PACKET

IT IS AUGUST. MY BOYS ARE OUT RIDING THEIR BIKES. I CALL THEM IN FOR DINNER. THEY DUMP THEIR BIKES AND COME IN. WE FORGET THEY LEFT THE BIKES OUT AND THE NEXT DAY I GET A NOTICE SAYING I BROKE RULE #5 , PAGE 9.. BICYCLES, ARE NOT TO BE LEFT OUTSIDE BUT MUST BE STORED IN THE HOME OR SHED.

THEN A MONTH LATER I HANG MY CLOTHES ON THE LINE AT 11 IN THE MORNING. I GO TO WORK AT 1PM. I COME HOME AND WITH IT BEING DARK I FORGOT TO BRING THEM IN. THE NEXT DAY I GOT A NOTICE THAT I BROKE RULE #7, PAGE 6. THAT'S MY SECOND VIOLATION.

THEN SUPPOSE TWO MONTHS LATER MY SIXTEEN YEAR OLD BOY COMES HOME AT 10:30 AT NIGHT. ACCORDING TO RULE #4, PAGE 9, THIS IS A VIOLATION AND BEING THE THIRD IN LESS THAN 12 MONTHES I COULD BE EVICTED. EVICTIONS ARE TOO EASY THIS WAY AND A VERY STRONG POSABILITY, ESPECIALLY PEOPLE LIKE MYSELF WHO ARE VERY BUSY WORKING FOR RESIDENT'S RIGHTS.

THAT'S WHY WE BELIEVE EVICTION FOR ANY RULE MUST BE FOR THOSE RULES CARRYING A SIGNIFICANT ADVERSE IMPACT. PLEASE SUPPORT HB 245.

1

My Name Is Cheryl Burpee V.A. Employee.
Husband + I are here in favor of tenents rights. We have 3 children.
In 1991 we had lived at Prairie Mobile Village for aprox 7yrs. owned own Mobile Home Always clean, neat, no loud music. Children worked for landlord.
The last week of August I was entering my 3rd year of Nursing at Carroll College.
3 days before class started we recieved an eviction.
NO REASON HAS TO BE GIVEN. However the Landlord did say it was because other tenents were complaining about our children.

2

I asked what they had done. He said:
- One climbed a tree.
- one walked across someones lawn

Supposedly they had committed these Crimes 6 months before! We tried to fight it. The stress was too much.
I had to drop a major 10 credit course.
We moved to another court. at 1 mile away. at the expense of 3 thousand dollars.
AT THE NEW COURT we kept our place clean. We gave away our dog which was 2 inches too tall. We abided by the rules.

3

IN THE SPRING of 1992 we recieved another EVICTION NOTICE.
REASON: our Grass Wasn't Green ENOUGH.
AGAIN WE PACKED our Belongings AND moved. AT THE EXPENSE of aprox 3 thousand. dollars.
my HUSBAND will follow.
This Law needs to be passed. to protect the rights of decent Law abiding citizens.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 18
DATE 3-19-93
BILL NO. HB345

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 19
DATE 3-19-93
BILL NO. HB345

$10,000 and rising. Thats the total of my current legal costs incurred in fighting eviction of my mobile from the rented space it rests on. My total monthly income is $637.00 Soc. Sec. Disability. I will have assumed a lifetime of debt trying to keep my home. On a superior tenant - I made the mistake of helping to create the Bozeman Mobile Home Courts Tenants Assoc. to improve my living environment. When I spoke out publicly about issues appealing myself & other tenants my troubles began. I was sued & ordered to vacate.

Research of the Tenant-Landlord Act showed just how neglected this area of concern is. In the last 16 years no new laws have been enacted to cover changing conditions.

Without a deterrent the unethical landlord will continue to do as they have done for decades: business as usual and evicting people without good cause.

The Landlords Assoc., and others,

Who oppose HB245 do so in direct relation to their financial interests, not to the welfare of the city people who they make their living off of.

Jamey Collins
1000 N 17th Ave #238
Bozeman, Mt.

Tippy & McCue

ATTORNEYS AT LAW

1215 Eleventh Avenue
P.O. Box 543
Helena, Montana 59624
406·442·4448 FAX 406·442-8018

Roger Tippy
Mary Kelly McCue

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 20
DATE 3-19-93
BILL NO. HB 245

DATE: March 19, 1993

TO: Members, Senate Judiciary Committee

FROM: Mary McCue
Lobbyist for Mobile Home Park Owners Group

RE: House Bill 245 providing "good cause eviction" of mobile home tenant

**Introduction**

House Bill 245 is unnecessary; numerous portions of the bill simply reiterate various provisions of the Montana Landlord and Tenant Act. Other provisions of the bill conflict with present law, making it impossible to determine which provision would apply to a particular circumstance.

**Compare House Bill 245 with Present Provisions of the Montana Landlord and Tenant Act**

Please consider the following:

Section 1 of HB 245 amends section 70-24-103, MCA, to provide definitions for a "mobile home owner" and "mobile home park".

Section 70-24-103, MCA, presently includes the person renting space in a mobile home park in the definition of "dwelling unit", thus making it clear that the Landlord-Tenant Law includes persons entitled to occupy a mobile home park space.

Section 2(1) of HB 245 limits the grounds on which a mobile home park may terminate a rental agreement. Those grounds are:

(a) nonpayment of rent

Section 70-24-422, MCA, presently allows a landlord to evict a tenant for nonpayment of rent.

| | |
|---|---|
| (b) violation of a mobile home park rule | Section 70-24-422, MCA, presently allows a landlord to evict a tenant for violation of a park rule. |
| (c) disorderly conduct | This section is unneeded because as a practical matter a tenant's disorderly conduct will likely violate a park rule which can lead to termination under section 70-24-422, MCA. |
| (d) conviction of a federal or state law or local ordinance<br><br>HB 245 seeks to establish exclusive grounds upon which a landlord may terminate a rental agreement. | Section 70-24-431, MCA, provides that a landlord may not retaliate against a tenant by increasing his rent or <u>evicting the tenant</u> from the mobile home park if the tenant complains of a violation by the park owner of a health or building code. The section also provides that the landlord may not evict a tenant who complains to the landlord for not keeping the premises safe and habitable, complying with building and housing codes, or maintaining utilities in safe and working order. Nor may the landlord evict a tenant for organizing or becoming a member of a tenant's organization. |
| Section 2(2)(a) of HB 245 provides that a mobile home owner or tenant who fails to pay overdue rent within 15 days of notice of nonpayment is subject to termination. | Section 70-24-422(2)(b), MCA, presently provides that if a mobile home park tenant fails to pay rent when due, he may be subject to termination after 15 days of written notice. |
| Section 2(2)(b) of HB 245 provides that a mobile home park owner may terminate a mobile home tenant's rental agreement if the tenant has received more than two written notices of late rent payments within a 12 month period. When the tenant receives the second late rent notice, he is placed on probation for 6 months. If | Section 70-24-422(2)(b), MCA, presently provides that a landlord may terminate the rental agreement of a mobile home park tenant if the tenant fails to pay the rent within 15 days of written notice of nonpayment. The statute does not allow the tenant to repeatedly fail to pay his rent on time before eviction. |

EXHIBIT 20
DATE 3-19-93
HB 245

he is late with his rent during that period, he may be terminated. This provision conflicts with the present law on termination for late payment of rent, section 70-24-422(2)(b), MCA.

Section 2(3)((a) of HB 245 allows a landlord to evict a mobile home park tenant who violates a park rule. But the landlord cannot evict the tenant unless he violates the same rule at least three times. This means that if the park has a set of 25 rules, the tenant could violate 50 times before facing the prospect of eviction. The section establishes a separate procedure for eviction of a tenant who violates a park rule that has a significant adverse impact on the park or its residents. The portion of this proposed new section relating to eviction for rule violation is cumbersome and conflicts with present provisions relating to eviction due to the tenant's noncompliance with the rental agreement.

Section 70-24-422, MCA, presently contains a provision allowing for eviction due to noncompliance of the rental agreement. Generally, a rental agreement would require the tenant's compliance with park rules. The present section establishes a procedure for notice and the landlord's subsequent right of termination.

**Other Provisions Protecting the Tenant**

The Montana Landlord and Tenant Act has numerous other provisions which provide adequate protection to a mobile home park tenant.

- Section 70-24-303, MCA, states that a landlord must comply with all applicable building and housing codes that affect the safety and health of tenants and make repairs and do whatever is necessary to keep the premises fit for habitation. Under that section the landlord must also keep all common areas clean and safe and keep all utility facilities in good and safe working order. The landlord also must maintain appropriate receptacles for garbage and arrange for its removal.

- Section 70-24-408, MCA, gives remedies to a tenant if the landlord fails to provide essential utility services.

- Section 70-24-411, MCA, provides that if a landlord unlawfully

removes or excludes the tenant from the premises or diminishes some essential service to the tenant, the tenant may recover possession of the premises or end the rental agreement. Under this section, the tenant also may recover up to 3 months' rent as damages for such wrongful action by the landlord.

→ Section 70-24-428, MCA, prohibits a landlord from forcing a tenant from the rental by purposefully diminishing services by interrupting heat, running water, hot water, electricity, gas, or other essential services.

→ Section 70-24-442, MCA, also provides further protection to the mobile home park tenant. The section states that in any legal action brought concerning a rental agreement, the prevailing party is entitled to recoup reasonable attorney fees and the costs of pursuing the lawsuit. This statute is another source of protection for a tenant who has been treated unjustly by his landlord.

These are only several of the numerous provisions of the landlord tenant laws which contain remedies for a tenant who is experiencing problems with a landlord.

EXHIBIT NO. 8
DATE 3-19-93
BILL NO. HB245

TESTIMONY ON HOUSE BILL 245 BEFORE THE SENATE JUDICIARY COMMITTEE

FRIDAY, MARCH 19, 1993, ROOM 325, 10:00 a.m.

Mr. Chairman, members of the committee, my name is Greg Van Horssen. I am here this morning on behalf of two organizations, the Income Property Managers and Owners Association of Montana and the Montana Landlords Association. Together, these two groups comprise around 1500 members and the groups administer over 53,000 rental units in the state. The organizations are dedicated to providing safe and, importantly, affordable housing to a large segment of Montana's population.

The IPMA and the MLA strongly oppose House Bill 245 for three reasons:

1. The majority of the bill already exists in law;

2. The bill creates a severe burden on a property manager's ability to make critical business decisions;

3. The "change of use" portions of the bill pose significant problems.

Prior to expanding upon these reasons, it is important to recognize a few important points about an individual's decision to provide housing in the form of a mobile home park. The operator of a mobile home park, it should be noted, operates a business. Presumably, that individual has decided to develop the mobile home park on his or her own or has purchased an on-going enterprise. Built into the decision to provide mobile home park housing is the assumption that the owner will have control over important business decisions affecting the profitability of the

enterprise and affecting the quality of services offered to the tenants.

House Bill 245 destroys all assumptions that the owner of this type of business will be able to control certain critical business decisions. The bill represents a serious attack on a mobile home park operator's ability to control a business and, just as importantly, makes it virtually impossible for the owner to guaranty a pleasant and affordable living environment for all tenants.

With respect to our first reason for opposing this bill, Ms. McCue has already adequately covered our position that the language of House Bill 245, for the most part, already exists in current law. I will not be redundant on this issue and simply echo Ms. McCue's comments on that concern.

Our second reason for opposing this bill, is that the bill creates a severe burden on a property manager's ability to make critical business decisions. In this regard, I refer to that portion of the bill that provides that a property manager may only terminate a rental agreement for the nonpayment of rent or late charges after the tenant has paid rent late three times. On this issue, I would like to note that the operation of a mobile home park is not generally recognized as a business with an extremely high profit margin. In the context of the mobile home park, as with any business, it is important to be able to forecast both the timing and the amounts of income in order to properly operate the business. This is particularly true in the

context of a business which provides residential space and services to its clients. With that in mind, to pass a bill which makes it perfectly legal for every resident in a mobile home park to withhold rent twice per year, will have a serious impact on the operation of the mobile home park. Additionally, this type of legislation will undoubtedly result in increased rental rates in the park given the fact that the property manager will need to count on the individuals who pay their rent in a timely fashion to cover for those individuals who take advantage of this legislation.

This bill will also allow each individual member of the mobile home park to violate each rule up to three times before facing even the possibility of eviction. This type of legislation removes from the landlord the ability to rid the community of rules violators. Of particular concern on this bill is that the tenant could not be evicted until the tenant has violated the same rule three times. In other words, if the mobile home park has adopted 50 rules, a problem tenant could conceivably violate 101 rules in a year's time before the property manager had any right whatsoever to evict that tenant. The real cost of this portion of the statute will be to the other tenants in the park.

The bill does provide that if a tenant violates a rule that creates "an immediate threat to the health and safety of any resident of the mobile home park", the agreement could be terminated within 24 hours. However, the determination as to which violations create "an immediate threat to the health and

safety of any resident" is quite difficult and, subject to any number of interpretations.

Interestingly, the third reason to allow the termination of the rental agreement is for disorderly conduct that results in, among other things, disruption of peaceful enjoyment, endangerment of other residents, or damage to the mobile home park premises. However, the statute would not allow the termination of the rental agreement for the violation of a rule that would have the similar effect on other residents.

Nor would a property manager be allowed to remove a problem renter for the violation of a state or federal law or local ordinance unless the violation is detrimental to the health, safety, or welfare of other residents in the park. I would submit to the committee that many violations, while disruptive to the rights of others in the mobile home park may not be detrimental to the health, safety, or welfare of other residents. In this regard, it will be quite difficult for the property manager to determine whether he is acting appropriately under this statute.

Also under subsection (d) on page 5, line 19, a landlord is required to document a violation of the provisions of Montana's criminal code in order to justify the termination of the rental agreement. This turns our property managers into private detectives and raises a concern as to whether any amount of documentation can be evidence of the violation of a criminal statute absent a judicial determination. In other words, that

"good cause" reason for terminating the rental agreement is probably unworkable.

The third reason for my organization's opposition to this bill involves the notice of change of use issue. House Bill 245 provides that if the landlord plans to change the use of all or part of the land composing the mobile home park, he must give individuals six months' notice of the intent to do so. Additionally, that six months' notice is in addition to the time necessary to procure any permits necessary to effect that change. This, of course, has a serious impact on a property manager's ability to make any changes in the park that might be necessary to the enjoyment of the residents if those changes would require the movement or removal of any mobile homes. In particular, I speak of changes a property manager might make to enhance the facility such as the creation of common areas or the widening of roads, all of which would benefit the tenants but may require a potential change in use. In this way, House Bill 245 would seriously impact a property manager's ability to serve mobile home park clientele in a timely fashion.

The six-month notice provision is particular concerning when permits might be required to effectuate a change in use. Under House Bill 245, the six-month notice would have to be given after all permits are obtained. This means that if the permit process takes a year, it would be at least 18 months before a landowner could actually realize a change in use on the property. This, of course, has a serious affect on a property manager's ability to



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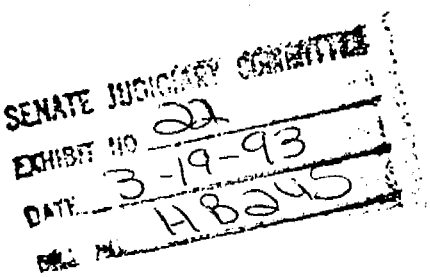
change the use of his or her real estate in whole or in part. I would also submit that this type of provision has a serious affect on an individual's decision to invest in the business of a mobile home park.

In that regard, while House Bill 245 is probably well intentioned with respect to guaranteeing adequate space in mobile home parks, the effect of the bill is probably quite to the contrary. In fact, if House Bill 245 is made law, I would submit that, due to the lack of willingness to enter into a business with this many constraints on it, the number of mobile home parks in Montana will quite probably decrease.

Thank you for this opportunity to address the committee.

Gregory A. Van Horssen

GVH/gv




Testimony
of Oakland Holding Company

H.B. 245

Senate Judiciary Committee
March 19, 1993

Mr. Chairman and members of the Committee, my name is Terry Cosgrove, and I am here on behalf of Oakland Holding Company, which owns a trailer court in Bozeman. I am here today to oppose the passage of H.B. 245. That bill in its statement of intent provides that there is a crisis in being able to find available mobile home spaces. This bill has the effect of making it even more undesirable for someone to consider the building of any new mobile home parks, thereby creating the exact problem it is trying to correct.

Again in the statement of intent, the bill states that mobile home owners may be forced to sell their home at a fraction of its cost because, if their rental agreement is terminated, they may only have thirty days to find another spot to rent.

To cure this problem, this bill provides that a mobile home owner can not terminate any mobile home agreement unless it is for one of the five reasons that are listed in the bill. The problem is that, in an effort to correct what is seen as a problem regarding the time a mobile home tenant would have to find another location, this legislation has denied substantial rights to the owner of the park. There are presently in effect statutes which would prohibit a landlord from evicting someone because of race, color, marital status and the

other protected rights. Section 49-2-305, MCA, provides very clear mandates that it is unlawful to discriminate in the rental of housing, including mobile home parks. Those statutes already exist, and this statute is not necessary.

Under this proposed statute, a landlord even if he has a legitimate and justifiable business reason for terminating a rental agreement would be prohibited from doing so. Such business reasons could very likely benefit both the park owner as well as the tenants. That is unfair; the owner should have the right to terminate the rental agreement of any tenant, as long as such action is not a form of discrimination or otherwise illegal. This legislation takes away the rights of landlords to change or modify their existing parks for legitimate business reasons. This legislation creates a new type of tenant, one that now enjoys special rights and privileges over tenants in other types of rental situations.

If the problem is that 30 days is not enough time for a tenant to find another rental location, then perhaps a more reasonable solution would be to provide that if the landlord is going to terminate the rental agreement for any reason other than one of the five listed in the proposed statute, then the landlord would be required to give the tenant 60 days' notice. This additional period should ensure that a tenant is not forced to sell the home just because he has to move. What is not reasonable is to tell a landlord that because it may be difficult to locate other mobile home spaces,

the owner has lost the right to make the necessary business decisions regarding his property. This statute is unfair and, in my view, constitutes a taking of property without due process.

I would also suggest that the existing language as to how many violations it takes to allow an eviction is so confusing as to be almost beyond understanding. The wording should be amended so that anyone can read the statute and readily understand what is necessary to evict someone for cause.

If the true concern of the proponents is that landlords are not complying with existing laws, then appropriate action should be taken against the owner, but this statute goes too far and is not the appropriate answer.

I would suggest that if what is necessary is to provide some additional time for a tenant to find a space, that such language could be fashioned to meet that particular need and that the committee consider assigning this bill to a subcommittee to meet with the parties to see if that type of reasonable language could be inserted into the bill. The last thing that these proponents want is to reduce the number of mobile home spots that are available, but with this type of legislation, that is exactly what will happen.

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DATE 3-19-93
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SENATE JUDICIARY COMMITTEE
23
3-19-93
HB245

# ATTENTION FOREST PARK TENANTS

I am asking for your support in opposing the current bill that in being put in front of the Senate on Friday March 19, 1993. This bill HB0245/03 in substance says:

That upon notice of eviction, a Tenant can occupy the mobile home park space for a period of six months. During this time said Tenant will have the freedom under this bill to do as he pleases to his space and his property without regard to his neighbors or other Tenants.

We as Tenants will suffer under such a bill, because no one will have the ability to enforce the rules and regulations that all of us agreed to when we moved into the park. I am sure that all of the Tenants in Forest Park intended to be honest and truthful when we agreed to rent our lot spaces. Why, then, should we have to suffer with possible future rent increases, and stricter park rules because a few deviant individuals have decided they do not want to pay their lot rents or follow park rules.

If this bill is enacted and we decide to sell our mobile homes most likely the property values of our homes will drop because of the appearance of a few tenants spaces that aren't kept up because they don't want to follow the rules and keep their spaces clean, pay their rents on time, and control their animals, because under this bill they will have six months to do as they choose on the lot, before they will be required to leave.

Under the law we are required to inform any real estate agency trying to sell our homes that (1) that we live in a bad neighborhood (2) if there are any existing problems. (3) if there is a high vandalism rate in the area. I would not like to live in a bad neighborhood -with dogs running loose, loud parties and music, and people not keeping up their lot spaces..

In a nut shell, why should we the Tenants of Forest Park have to suffer because of a few people who do not want to live up to the responsibility of their lease and abide by the rules and regulations that they agreed to obey when they moved into the park. We already have a nice community, lets strive to keep it that way.

As the President of the Tenants Association in Forest Park I. am opposing the current bill HB0245/03 and I am asking for your support. I don't feel that we the Tenants and our local government should have be a baby-sitter to people who don't want to live in a neighborly manner in their mobile home park community..

If a Tenant has the right to violate rules and they must be given two or more warnings and still continue to stay in the park for up to six months before eviction, then I believe the neighbors located around such a tenant are themselves being victimized.

Sincerely yours,

Craig Draper
President Forest Park Tenants Association

# OPPOSING SIGNATURES TO HOUSE BILL HB0245/03
# FOREST PARK TENANTS

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 24
DATE 3-19-93
BILL NO. HB245

The original is stored at the Historical Society, 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

R. Christopher Maedje
P.O. Box 336
Alberton, Montana 59820

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 25
DATE 3-19-93
BILL NO. HB245

March 12, 1993

Dear Senator,

I am writing concerning HB 245. Although I do not oppose the entirety of the mobile home park and tenants rights bill, I strongly oppose aspects of the bill.

My objections are as follows:

I purchased a mobile home on a lot in California some years ago as a home and as an investment. At the time, I could not afford a regular home. As well, I hoped to eventually resell my mobile for a higher price. The market conditions were excellent at the time.

However, soon after my purchase, a group similar to the People's Action Incorporated of Montana, came into California and helped tenants like myself push through a "Good Cause" eviction bill.

They told us if the bill passed, us tenants would possibly be able to purchase mobile home parks from the owner's because it was thought the owner's would not want to hassle with the regulations imposed upon them by the new law. We would supposedly have more control over our circumstances and the park itself even if we were not able to purchase the park. We cheered, wrote letters to the state assembly, rode buses to committee hearings, and held banners on the Capitol steps for photographers.

The bill passed almost in its entirety. But soon our troubles began.

Within a year the mobile home parks in the area began to deteriorate. The owners were not able to enforce the rules or realistically evict bad tenants. Soon after "Just Cause" went into effect there were blasting stereos at midnight, beer cans laying on lawns, car parts strung over yard fences-- the park I lived in became a mess and there was little the management could do about it.

I and other tenants regularly asked management to enforce the rules, but management was essentially limited to writing letter after letter without any real result. Whereas before "Just Cause" the park was beautiful.

As such, it became poignantly and immediately clear what a mistake it was to for us to have helped such legislation become law. Roughly one year later and as head of a tenants committee we formed, we jokingly referred to the good cause law as "a good cause, that is, if you're a bad tenant."

"Just Cause" was financially detrimental as well. For some time I had wished to permanently reside in Montana. However, when I went to sell my mobile home, I had planned on selling it in what was at one time a [illegible] a nice park adds to the value of a

fact sold in mobile home parks and not moved to another site.

However, when I went to sell, people who came to look at my mobile would tell the realtors showing my place, "great house, we want it, but not with those neighbors across the street." I was unfortunate enough to be across the street from one of the regular violators of the park rules-- living across from bad tenants and with the "Just Cause" law in effect-- the value of my home decreased.

I eventually sold for just $1900 more than I purchased the home for five years previously. Before "Just Cause" went into effect, the mobiles in that park and other parks in the area had been appreciating at a rate of about $1500-2500 per year. "Just Cause" ended my hopes to in fact increase the equity in my mobile.

Obviously, the California market values increased more readily than Montana, but it appears the same is occurring in Montana now days.

I had planned on purchasing a mobile in a park this year, but I absolutely refuse to do so if this law goes into affect. I can not afford land or a house, and I am trying to do what I and many others have tried to do through living in mobile homes, and that is, make the transition to a regular home someday.

I agree there may need to be some additional time to sell a mobile, and I believe there exists a balancing act between the right of park owner to receive income from their investment and the right of a tenant to be dealt with reasonably and with some dignity. However, and speaking from experience, "Just Cause" is not a solution.

Further, as I read HB 245, and having experience in legal research and writing, I believe the language is a litigation nightmare. It compels owners to litigate with tenants and tenants to litigate with owners.

A better answer would be to seriously strike HB245 of its litigation language. My opinion here is that if the tenant and landlord knows beforehand what park rules are and what the terms of the rental agreement are, courts are unnecessary to adjudicate whether or not a rule was "reasonable" [Section 2. sub-section 3a(i)].

Straight forward rules, straightforward rental agreements-- Keep it out of the courts and keep it simple.

In short, if HB 245 is not severely amended to allow owners to enforce the rules of the park without long time delays of multiple notifications and eventually having park rules subject to "reasonable" interpretation by Courts, the same thing will occur that occurred in California-- you'll be hearing from tenants again. Only this time they will be asking you to do what I asked the California assembly to do-- remove just cause from the code and start over with something different. And in fact, if you examine California mobile home park law today, the "Just Cause" law has been amended and revised out of existence so that presently mobile home law is roughly at the place where it was before "Just Cause" went into affect.

I ask that history will not repeat itself here in Montana.

R. Christopher Maedje

PAGE NUMBER | DATE: / /

PROJECT

10 UNITS OR SMALLER

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 21
DATE 3-19-93
BILL NO. HB545

COMMENTS | NOTES

1. ~~THE~~ MET W/ MPAC IN MSLA - FRO 92 CRAIG WALDBOARD, VERN FISCHER & I MET MAR, APRIL, MAY, SEPT, OCT of 92 VARIOUS OTHERS ATTENDED ONE OR MORE MTNGS
2. MTNGS WERE SCHED FOR NOV & DEC. MPAC CANCELLED THEM. THEY DID NOT WANT TO CONTINUE THE DIALOG.
3. THIS BILL HAS BEEN AMENDED BY ITS SPONSOR MORE THAN 40 TIMES TO REACH THIS POINT. IF WE HAD HAD THOSE MTNGS, MOST OF THOSE AM'S MAY NOT HAVE BEEN NEEDED.
4.

5. MHP OWNERS CAN NOW BE BROUGHT INTO VIOLATION OF STATE LAW OR ADMIN RULES BY TENANT WITH NO RECOURSE TO THE TENANT EXCEPT EVICTION.

$25 per day

$500 DEPOSIT TO SHANNON

5% REA

MONTANA CABLES

FAILURE TO MOW & TRIM

HEALTH DEPT

- I.E. UNLICENSED DAY CARE, UNINSURED
- WASHING ON SEPTIC SYSTEMS
- ABANDONED VEHICLES THAT PRODUCE INSECT & RODENT HARBOURAGE
- BAD SKIRTING - DITTO
- BAD SEWER CONNECTIONS
- NO NUMBERS ON M/H - FIRE DEP
- ANIMALS AT LARGE

THIS BILL MAKES THAT EVEN MORE DIFFICULT

CAMBRIDGE

Cecil Walborn, Manager Countryside Village MHP, Great Falls, MT.

It was mentioned that the Owner/Managers of mobile home parks are buying and selling homes of tenants, that are subjected to eviction but with no place to move. That the homes are being bought at 30 cents on the dollar of it's value. I find this hard to believe. In one incident the tenant was behind on the rent. A summons had been delivered. The management offered to buy his home to help him clear up his indebtedness,

Yes it does appear that his home was bought at less than it's blue book value, but when you subtract what the indebtedness was and give to him the reminder that would indicate that the home was bought for less than it's value. This tenant had the right to accept or reject the offer. He was willing to accept the offer. This can be supported by the Owner/Manager, who are present at this committee hearing. There is also an incident in which we helped a tenant get his home sold to clear up his indebtedness on his back rent. He had actually abandoned the home. Neither was a case of coercion or a threat on the tenant, but that the tenant was willing to accept the offer. In Montana if you buy and sell more than three homes a year you must have a dealers license. We have just received our dealers license. So now we are able to sell the homes for those who want to sell and list their home with us. We have found that, in Great Falls, Missoula, Bozeman, Billings and Helena, the homes are selling fast and at a value above the blue book listing. In Great Falls the home owner can list his home in the paper and within a week the home is usually sold. The home owner has the right to sell his home the way he chooses. We as a dealer are offering a service in which we can sell the home for them, if they choose to use us. We can arrange financing for the buyer, do the advertising, and arrange a time to show the home. We do not buy the home, just sell them.

I do not believe we need a law giving the tenant more time than is already available to move, in the case of eviction or to correct a problem. A large percent of the time if the tenant would take the time to talk to the management an agreement can be made that would be workable for both parties.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 27
DATE 3-19-93
BILL NO. HB345

Billings, Montana
March 18, 1993

Mr. Bill Yellowtail, Chairman
Senate Judiciary Committee
Capitol Station
Helena, Montana 59620

SUBJECT: HB 245

Dear Mr. Yellowtail:

We strongly oppose House Bill 245 as it will create hardships on both tenants and landlords. It will force a lot of older individuals out of business if they have a lawsuit. Many of these people are subsidizing their income with a rental or two. If forced out of business the government will have to help them.

Each time a rental door is closed it makes it that much harder on the tenants to find a place to go. When there is a shortage of rentals the price of rent goes up. Each lawsuit will also raise the rents. So who gains? I think we all know as it sure isn't the tenant or landlord.

As to the fifteen day notice to change the use of the property so tenants can go in and testify against the landowner would be unconstitutional and would be taking owners rights away.

We do agree to the six months notice to vacate a court if there is to be a change in the property.

We do not have the shortage of rental spaces in the Billings area. We do not seem to have the problems that Missoula does or if we do they are very minimal.

Montana Legal Service Representatives agrees that there is about one percent bad landlords and tenants. So I ask why keep changing the laws and penalizing the rest. There is laws on the books now to take care of all the problems if they will just use them. Why keep taking up the legislatures time and costing the taxpayers right at $2000.00 a bill to be processed.

I apologize to the legislature that we have to come up here each year to put down the same bills year after year.

Thank you for your time and consideration.

Sincerely,

Mrs. Montana N. Watts

Mrs. Montana N. Watts
3455 Old Hardin Road
Billings, Montana

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 28
DATE 3-19-93
BILL NO. HB245

Billings, Montana
February 1, 1993

Mr. Steve Benedict, Chairman
House Business and Economic Development
Capitol Station
Helena, Montana 59620

SUBJECT: HB245 & HB321

Dear Mr. Benedict and Committee:

We the tenants in the Glentana Mobile Home Court and R.V. Park do hereby oppose House Bill 245 and House Bill 321 for the following reasons:

* Our lives and property are at risk, when the owners of an Mobile/RV park cannot exclude or evict unsavory tenants as quickly as posssible.

* 30 days is more than reasonable, to evict persons who are not paying their rent or acting in an irresponsible manner to the detriment of the court.

* Lawsuits and other costs of doing business raises expenses and causes landlords to raise rents and interferes with our spendable income.

* Rental agreements between landlord and tenant should be optional as to period of time and not force either party into a hardship by codifying length of time. Should a renter need to leave the court before the time was up...a penalty could be imposed under this house bill.

* These bills may cause hardships and shortages of mobile courts where tentants need to reside. Present laws are more than adequate and we must keep the number of mobile courts from diminishing.

Name of Tenants at 3455 Old Hardin Road, Billings, Montana. 59101

1 Veronica Lindermuth
2 Rachel A Miller
3 [illegible]
4 Deanne Delap
5 Karen M. Pitt. Pyle
6 [illegible]
7 Robin Kelley
8 Jackie McKay
9 [illegible]
10 Lula McKay
11 Dick McKay
12 Valeria Houlihan
13 Debbie Norton
14 Laurette Stenglein
15 [illegible]
16 Cynthia L. Bott
17 [illegible]
18 Penny L Carlson
19 Margie Stoker
20 Katherine B Daniel
21 Ruth E Beckman
22 Tamara L Eldridge
23 [illegible]
24 Marilyn Kercher
25 Merrill Tate
26 Ezra M. Allen
27 Ruben A. Rossberg
28 [illegible]
29 N Lee
30 Lula Masters
31 Steve Weber
32 Floyd Lemonds
33 Margaret Eldridge
34 Doreen Lauren

Billings, Montana
February 1, 1993

Mr. Steve Benedict, Chairman
House Business and Economic Development
Capitol Station
Helena, Montana 59620

SUBJECT: HB245 & HB321

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1 [illegible]
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3 [illegible]
4 [illegible]
5 [illegible]
6 [illegible]
7 [illegible]
8 [illegible]
9 [illegible]
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31 [illegible]
32 [illegible]
33 [illegible]
34 [illegible]

# King Arthur Park

81 Gallahad Way
Bozeman, MT 59715
(406) 587-5151
(406) 587-7361

I am against Bill (House) 245 because I feel it will tie the hands of the park managers, and cause the quality of enviro-ment that I now enjoy to be hampered. The residents of King Arthur Park pay a premium rent for a quality place to live, and we expect that the management will evict individuals in a timely manner if violations of the rules occur. We have a very strict book of rules that we signed when we bought our home, and placed it in this park. We expected that the rules would be followed, or eviction would occur. We also expected that our neighbors would also be held responsible to obey these same rules. Homes in King Arthur bring a premium when sold. If you choose to disregard the Majority to protect a few, I believe it would be a serious error.

J. V Bruflat 96 Bedivere

Sarah J. Chandler 137 Tristram

Robert E. Chandler 137 TRISTRAM

Donald E. Elliott 185 Launfal

Rosie Campbell 163 Gawain Way

Carla Dean 159 Gawain Way

Loretta Leridaman 142 Gawain Way

W. E. Hood 50 Merlin Cts.

Chryptobel Aasen 135 Tristram Ct.

Margaret M. Wood 50 Merlin

Phyllis A Hunt 51 Merlin

James O. Hunt 51 Merlin Dr.

#30 Bedivere

Bonita Lynn Jackson 30 Bedivere

38 Bedivere

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 29
DATE 3-19-93
BILL NO. HB245

DATE 3-19-93

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: H.B 245-Kadas H.B. 216 - Grad, H.B. 396-Whalen

| Name | Representing | Bill No. | Check One: Support | Check One: Oppose |
|---|---|---|---|---|
| Jacqueline Denmark | Am. Dis. Assoc. | HB 396 | | ✓ |
| Adelle Fallan | MT Petroleum Ass'n | HB 216 | | ✓ |
| Patrick L. Keller | Travelers Res. Assoc. | 245 | ✓ | |
| Henry Hart | Quik Mart Stores | 216 | X | |
| Joseph Crimmins | Stockton Oil Co. | 216 | ✓ | |
| Clark Edgerton | Cenex | 216 | ✓ | |
| Bill Dermott | Exxon Company, USA | 216 | | ✓ |
| Marion Ryan | Cenex | 216 | ✓ | |
| Steve Visocan | Visocan Petroleum | 216 | ✓ | |
| Jim Ryan | Oil's | 216 | ✓ | |
| Leslie McBirnie | MPA | 245 | ✓ | |
| Greg McBirnie | MPA | 245 | ✓ | |
| Bob Blomgren | Eastern Groce | 216 | ✓ | |
| Dave Sutey | Sutey Oil Co | 216 | ✓ | |
| Robert Mallee | Ado Serv'N Save Inc | 216 | ✓ | |
| | Two Bear's | | ✓ | |

# VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

DATE 3/19/93

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: HB 245 KADAS; HB 216 Grady
HB 396 Whalen

| Name | Representing | Bill No. | Check One Support | Oppose |
|---|---|---|---|---|
| Wes Krawczyk | SELF | | | |
| Cate Campbell | Good Cause/MPA | 245 | ✓ | |
| Ellen Ayling | Good Cause/MPA | 245 | ✓ | |
| Mike Sundine | Self | | | |
| Ron Roby | Self | | | |
| Kevin Mehr | self | | ✓ | |
| Bill Olson | AARP | 245 | ✓ | |
| Anthony Duffy | MFA | 245 | ✓ | |
| Percie Jones | MPA | 245 | ✓ | |
| Hal Tremper | self | 216 | X | |
| Steve Manderville | MT Assoc Realtors | 245 | | X |
| DAWN PETERSON | SELF | 245 | ✓ | |
| MICHAEL PETERSON | GOOD CAUSE/MPA | 245 | ✓ | |
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## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

DATE 3-19-93

SENATE COMMITTEE ON JUDICIARY

BILLS BEING HEARD TODAY: HB 216, 245, 396

| Name | Representing | Bill No. | Check One Support | Oppose |
|---|---|---|---|---|
| SAM CISNEY | MOONLITE AUTO | 245 | X | |
| [illegible] | FRONTIER CONOCO | 216 | X | |
| Eleanor A. Price | Frontier Center | 216 | X | |
| Stacey Soffe | Target Range | 245 | X | |
| [illegible] | [illegible] | 245 | V | |
| John H. Marshall | Travers Residents Assoc | 245 | X | |
| [illegible] | [illegible] | 245 | X | |
| Bruce Hotola | Target Range Tr. Ct. | 245 | X | |
| Jon Parker | MMPA | 245 | X | |
| Doris Van Vleet | Whitefish Trails Court | | | X |
| Jim Fleischmann | MPA | 245 | X | |
| [illegible] | CMA | 245 | X | |
| [illegible] | MT Petroleum Marketers | 216 | X | |
| [illegible] | Great Falls MHC Residents | 245 | | |
| Robert Durkop | Helena MT | 245 | | V |
| Bob Chesteman | Lolo MT | 245 | V | |

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

DATE 3-19-93

SENATE COMMITTEE ON JUDICIARY

BILLS BEING HEARD TODAY: HB 216, 245, 396

| Name | Representing | Bill No. | Check One: Support | Check One: Oppose |
|---|---|---|---|---|
| Judy Little | 2128 5th Ave S Great Falls MT 59405 | HB 216 | ✓ | |
| Larry D Little | 2125 5th Ave S Great Falls MT | 216 | ✓ | |
| Billie T Dagsett | Conoco Retail Store at Malmstrom AFB | 216 | ✓ | |
| John D Dagsett | " " " | 216 | ✓ | |
| Larry Maki | 15th St Conoco G Falls | 216 | ✓ | |
| Loren Ronville | Westside Exxon G Falls | 216 | ✓ | |
| Carl Halcro | Carl's Exxon G.F. | 216 | ✓ | |
| Mike Peterson | | 216 | ✓ | |
| Janet Dillingham | Dillingham Inc | 216 | ✓ | |
| Pam Dillingham | " " " | 216 | ✓ | |
| C.D. Dillingham | " " " | 216 | ✓ | |
| Mary Dillingham | " " " | 216 | ✓ | |
| David + Cathie Nyquenin | HB 245 Good cause | 245 | ✓ | |
| Don Self | 2995 Prospect | 245 | ✓ | ✓ |
| Joan Gebbo | Montana Legal Services | 245 | ✓ | |
| Lynn Fragua | Ronan, MT. | 245 | ✓ | |

# VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

DATE 3-19-93

SENATE COMMITTEE ON H.B 216 (JUDICIARY)

BILLS BEING HEARD TODAY: HB 245, HB 396

| Name | Representing | Bill No. | Check One: Support | Check One: Oppose |
|---|---|---|---|---|
| Mark R. Olson | MBOG Inc. | 216 | X | |
| Thomas L. Ulmer | Stockmen's Bank | 216 | X | |
| Alice Jenks | Lewis Assn | 245 | X | |
| Jason Lacivita | Governor M.H.C. Assn | 245 | X | |
| Christine Kaufmann | 93 Ranch Rd 4-H Leader | 245 | X | |
| Tom Hopgood | Treasure County Resident | 245 | X | |
| Riley Johnson | NFIB | 216 | X | |
| Bill Hanes | Mt Food Dist Assn | 216 | X | |
| Ed Kemmis | self | 216 | X | |
| Larry Fasbender | Mt. Council of Coops | 216 | X | |
| Lorna Frank | Mt. Farm Bureau | 216 | | X |
| JUDITH H CARLSON | HRDC DIR ASSN | 245 | X | |
| [illegible] | [illegible] | 245 | | X |
| Patrick Baldwin | Billings, Blaine Cnty | 245 | X | |
| Dennis McCort | Billings | 245 | X | |
| Ed Eaton | T-L Court | 245 | | X |

# VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

DATE 3-19-93

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: HB 245, HB 216, HB 396

| Name | Representing | Bill No. | Check One: Support | Check One: Oppose |
|---|---|---|---|---|
| Craig Draper | Forest Park | 245 | | ✓ |
| Jack Draper | Forest Park | 245 | | ✓ |
| John Arvish | Missoula Village West | 245 | ✓ | |
| Janet Salmonson | Westview Trailerpark | 245 | | |
| Norma Kessner | Great Falls, MT | 245 | | ✓ |
| K M Hodges | Mt Falls MT | 245 | | ✓ |
| Dorothy Schmidt | Mt. Falls, Mt | 245 | | ✓ |
| Ann K Fischer | G.F. MT. | 245 | | ✓ |
| Candace Timmerman | Montana Stockgrowers Assn | 216 | | ✓ |
| Linda Carpenter | Intermountain Hop Growers Assoc. Mgr. | 245 | | ✓ |
| Linda Moore | Travelers United for Rail | 245 | ✓ | |
| Karen Schmidt | Travelers United for Rail | 245 | ✓ | |
| Jimmy Reynolds | Montana United | 245 | ✓ | |
| Terry Dahlquist | Missoula Village West | 245 | ✓ | |
| Allen Ary | Missoula Travelers United | 245 | | |
| William R Noonel | Hi-Noon Petroleum Miso, MT | 216 | For | |

# VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

DATE 3-19-93

SENATE COMMITTEE ON JUDICIARY

BILLS BEING HEARD TODAY: H.B. ~~225~~ 245, HB 216, HB 396

| Name | Representing | Bill No. | Check One Support | Oppose |
|---|---|---|---|---|
| ANDY SKINNER | LIFESTYLE HOMES | 245 | | ✓ |
| Lee Reynolds | MOBILE CITY | 245 | | ✓ |
| Jerry Swenson | Lesley Acres | 245 | | ✓ |
| Frank Ahrens | Home Rentals | 245 | | ✓ |
| DAN WOOD | MT. LANDLORDS | 245 | | ✓ |
| Tom Hogan | Mt. Assoc Realtors | 245 | | ✓ |
| Cheryl Burpee | self, tenants of MT | 245 | ✓ | |
| Mike Burpee | self, tenants of MT | 245 | ✓ | |
| Dan Shea | A Citizen's Point of View | 245 | X | |
| RICK MATTOLE | self | 245 | | ✓ |
| Bea Steen | self, MPA | 245 | | ✓ |
| Carl Walborn | IPM's | 245 | | ✓ |
| Steve Rich | Concerned Citizen for Bridge View Forest Park Woodlawn | 245 | | ✓ |
| Ron Roberson | Forest Park | 245 | | ✓ |
| Vicky Wyant | Ki Cotton | 245 | | ✓ |
| Joe Wilson | Forest Park | 245 | | ✓ |

# VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

DATE 3-19-93

SENATE COMMITTEE ON JUDICIARY

BILLS BEING HEARD TODAY: HB 216, 245, 396

| Name | Representing | Bill No. | Check One: Support | Check One: Oppose |
|---|---|---|---|---|
| Dancie Battelle | Missoula | 243 | ✓ | |
| Pat Sullivan | Mt Falls | 245 | | ✓ |
| Melissa Case | HELENA/MPA | 245 | ✓ | |
| [illegible] | [illegible] | 245 | | ✓ |
| Greg Van Hussen | State Farm Ins | 396 | | ✓ |
| Thomas Rohland | Travis-Risk | 245 | ✓ | |
| Ron Abrahamson | State Farm Ins | 396 | | ✓ |
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VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

ATE 3-19-93

NATE COMMITTEE ON JUDICIARY

LLS BEING HEARD TODAY: HB 216, 245, 396

| Name | Representing | Bill No. | Check One Support | Oppose |
|---|---|---|---|---|
| Douglas J. Salinger | Mt. Peoples Action | 245 | X | |
| Ind P. Gaylord | Self | 245 | X | |
| Stephen K. Wells | M.P.A. | 245 | X | |
| ALICE FOX | M.P.A. | 245 | X | |
| Percie Jones | MPA | 245 | X | |
| Janet Isabel | MPA | 245 | X | |
| Scott Turner | MPA | 245 | X | |
| Mary Lou Smith | TRAVOS VILLAGE | 245 | | ✓ |
| JEAN CLOTHIER | MONTANA LANDLORDS | 245 | | ✓ |
| Denie Kain | TRAVOS Village | 245 | | ✓ |
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VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

# ROLL CALL

SENATE COMMITTEE Judiciary DATE 3-26-93

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| Senator Yellowtail | X | | |
| Senator Doherty | X | | |
| Senator Brown | X | | |
| Senator Crippen | X | | |
| Senator Grosfield | X | | |
| Senator Halligan | X | | |
| Senator Harp | X | | |
| Senator Towe | X | | |
| Senator Bartlett | X | | |
| Senator Franklin | X | | |
| Senator Blaylock | X | | |
| Senator Rye | X | | |
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FC08

Attach to each day's minutes

action to be taken on this date.

Senator Halligan said he would withdraw his motion to amend HB 482 to wait for further amendments before the end of executive session on this date.

Senator Doherty withdrew his motion to TABLE HB 482.

**Motion:**
Senator Doherty moved that HB 482 be the last bill to be considered during this executive session.

**Discussion:**
Senator Halligan WITHDREW his motion to amend HB 482.

## EXECUTIVE ACTION ON HB 245

**Discussion:**
Senator Towe explained amendment hb024504.avl. (Exhibit #11)

**Motion:**
Senator Towe moved to AMEND HB 245.

**Discussion:**
Chair Yellowtail asked Rep. Kadas to comment on amendment hb023504.avl. Rep. Kadas supported the amendment because it clarifies the bill and makes it easier to read.

Chair Yellowtail asked Jim Parker, Montana People's Action to comment on the amendment. Mr. Parker supported the amendment.

Chair Yellowtail asked Mr. Greg Van Horssen, Montana Landlords Association, to comment on the amendment. Mr. Van Horssen said the Montana Landlords Association does not concur with the amendments.

Senator Blaylock asked Senator Towe about playing loud music at a mobile home park. Senator Towe said loud music would have a significant adverse affect on a mobile home court. Senator Towe said 70-24-321 states that the individuals must conduct themselves in a manner that would not disturb their neighbors peaceful enjoyment of the premises. Therefore, the tenant could be evicted after three or more violation, even if there is not a rule in the park about load music.

Chair Yellowtail asked Senator Towe about sub 2. Senator Towe said sub 2 states that a tenant may not destroy, deface, damage, impair, or remove any part of the premises or permit any person to do so. Senator Towe said that should be a one time violation.

Ms. Lane said HB 245 was originally drafted to say that if a tenant received three notices of violations within a year, then they could be evicted. Ms. Lane said Senator Towe amended the bill to say that it no longer matters how many notices a tenant is given, but it is the number of times a tenant violates the rules.
Ms. Lane suggested an amendment relating to the payment of rent in amendment #9.

Chair Yellowtail said item #9 would be corrected to refer to 1(a) and 1(b).

Senator Towe said if a tenant has their payments structured so rent is due one day and maintenance fee on another day, the tenant could have separate violations, but if they are both due on the same day only one notice per month could be given.

Chair Yellowtail said the amendment is minor relating only to the payment of rent in amendment #9.

Senator Harp asked Mr. Van Horssen to comment on the amendment. Mr. Van Horssen said he would not oppose the amendment.

Ms. Lane said I think that amendment #9 should be amended only to 1B.

Chair Yellowtail said item #9 would refer to subsection 1(b) only.

**Vote:**
The motion to amend HB 245 CARRIED UNANIMOUSLY.

**Discussion:**
Senator Towe explained amendment hb024503.avl. (Exhibit #12)

**Motion:**
Senator Towe moved to AMEND HB 245.

**Discussion:**
Senator Bartlett told the Committee that the meaning of "legitimate business reason" was very broad. Senator Bartlett proposed an amendment dealing with the same issue. (Exhibit #13) Senator Bartlett explained amendment hb024505.avl.

Senator Towe asked Senator Bartlett about increasing the amount of mobile home park spaces. Senator Bartlett said there would be no affect.

Ms. Lane told the Committee that on page 6, lines 10 and 11,

states the reason a mobile home park owner could evict someone, which would include change in the use of the land if the requirements of subsection 2 were met. Ms. Lane said both amendments proposed by Senators Towe and Bartlett address subsection 2, but would not affect whether they could be evicted for that purpose. The language on lines 10 and 11 would still remain, but a tenant could be evicted if the park owner changes the use of the land as long as the requirements of subsection 2 were met.

Senator Harp told the Committee about his proposed amendment. (Exhibit #14)

Ms. Lane said any change in the use of the land would be a basis for eviction and the only requirement would be that a written notice be given.

Senator Towe told the Committee that he did not think that his amendment would be necessary if Senator Harp's amendment was adopted.

Senator Towe asked Mr. Van Horssen to comment on Senator Harp's amendment. Mr. Van Horssen told the Committee that he would support Senator Harp's amendment and that Senator Towe's amendment would not be necessary.

Senator Towe WITHDREW his motion to amend HB 245. (hb024503.avl)

**Motion:**
Senator Harp moved to AMEND HB 245. (Exhibit #14)

**Discussion:**
Senator Harp explained his amendment.

**Vote:**
The motion to amend HB 245 CARRIED with Senators Franklin and Halligan voting NO.

**Discussion:**
Senator Halligan told the Committee that he would like an immediate effective date with the passage of HB 245.

**Motion:**
Senator Halligan MOVED for an immediate effective date with the passage of HB 245.

**Motion:**
Senator Franklin made a substitute motion for an effective date

to be in effect 30 days after the passage of HB 245.

**Discussion:**
Senator Franklin said her concern is that no one would be informed of the passage of HB 245.

Senator Towe said he would concur with the substitute motion.

**Vote:**
The motion CARRIED UNANIMOUSLY for an effective date to be in effect 30 days after the passage of HB 245.

**Discussion:**
Senator Doherty told the Committee that HB 245 ONLY applies to mobile homes. It DOES not apply to the landlord tenant act or rental units other than mobile homes.

**Motion/Vote:**
Senator Towe moved HB 245 BE CONCURRED IN AS AMENDED. The motion CARRIED by a Roll Call Vote.

## EXECUTIVE ACTION ON HB 474

**Discussion:**
Chair Yellowtail told the Committee that the Department of Justice supported HB 474.

**Motion:**
Senator Bartlett moved HB 474 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY.

## EXECUTIVE ACTION ON HB 346

**Motion:**
Senator Doherty moved to STRIKE section 2 and section 4 from HB 346.

**Discussion:**
Senator Doherty said section 2 and section 4 deals with contingency fees. Senator Doherty said the sections would prevent access to the courts for severely injured people.

Chair Yellowtail said Senator Doherty's amendment would remove section 2 and section 4 in its entirety.

SENATE STANDING COMMITTEE REPORT



MR. PRESIDENT:
We, your committee on Judiciary having had under consideration House Bill No. 245 (third reading copy -- blue), respectfully report that House Bill No. 245 be amended as follows and as so amended be concurred in.

Signed: Wm Yellowtail
Senator William "Bill" Yellowtail, Chair

That such amendments read:

1. Title, line 5.
Strike: "FIVE"

2. Title, line 8.
Strike: "AND"
Strike: "SECTION"
Insert: "SECTIONS"
Following: "70-24-103"
Insert: "AND 70-24-311"
Following: "MCA"
Insert: "; AND PROVIDING AN EFFECTIVE DATE"

3. Page 5, lines 10 and 11.
Following: "rent" on line 10
Strike: "OR"
Insert: ","
Following: "CHARGES," on line 10
Strike: remainder of line 10 through "(2)" on line 11
Insert: "or common area maintenance fees as established in the rental agreement"

4. Page 5, line 12.
Following: line 11
Insert: "(b) late payment of rent, late charges, or common area maintenance fees as established in the rental agreement three or more times within a 12-month period if written notice is given by the landlord after each failure to pay, as required by 70-24-422;"
Renumber: subsequent subsections

5. Page 5, lines 12 and 13.
Following: "rule" on line 12
Strike: remainder of line 12 through "(3)" on line 13
Insert: "that creates an immediate threat to the health and safety of any resident of the mobile home park if the violation has not been remedied 24 hours after the violator

MC Amd. Coord.
MJ Sec. of Senate

Weldon
Senator Carrying Bill

691301SC.Sma

is given written notice of the violation;

(d) three or more violations within a 12-month period of any combination of one or more mobile home park rules, the violation of which would have a significant adverse impact on the mobile home park or its residents and which are so designated;

(e) three or more violations within a 12-month period of the same rule;

(f) three or more violations of 70-24-321(1) within a 12-month period or any violation of 70-24-321(2)"

Renumber: subsequent subsections

6. Page 6, line 3.
Strike: "or"

7. Page 6, line 5.
Strike: "(4)"
Insert: "(2)"
Following: "met"
Strike: "."
Insert: "; or"

8. Page 6, line 6.
Following: line 5
Insert: "(j) a legitimate business reason of the landlord if the requirements of subsection (3) are met."

9. Page 6, line 6 through page 9, line 18.
Strike: subsections (2) and (3) in their entirety
Renumber: subsequent subsection

10. Page 10, line 13.
Strike: "(4)(b)"
Insert: "(2)(b)"

11. Page 10, line 25.
Following: line 24
Insert: "(3)(a) A landlord may terminate the rental agreement of a mobile home owner or a tenant of a mobile home owner if the landlord, by the termination:

(i) does not violate a provision of this section or any other state statute; and

(ii) has a legitimate business reason.

(b) A landlord shall give the mobile home owner or the tenant of a mobile home owner a minimum of 6 months' written notice of termination.

(4) For purposes of calculating the total number of notices given within a 12-month period under subsection

(1)(b), only one notice per violation per month may be included in the calculation."

12. Page 11, line 16.
Following: line 15
Insert: "Section 3. Section 70-24-311, MCA, is amended to read:
"70-24-311. Landlord authorized to adopt rules. (1) A landlord may adopt a rule concerning the tenant's use and occupancy of the premises. A rule is enforceable against the tenant only if:
(a) its purpose is to promote the convenience, safety, or welfare of the occupants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally;
(b) it is reasonably related to the purpose for which it is adopted;
(c) it applies to all occupants in the premises in a fair manner;
(d) it is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform him of what he must or must not do to comply;
(e) it is not for the purpose of evading the obligations of the landlord; and
(f) the tenant has notice of it at the time he enters into the rental agreement or when it is adopted.
(2) If a rule is adopted after a tenant enters into a rental agreement that works a substantial modification of his bargain, it is not valid until 7 days after notice to the tenant in the case of a week to week tenancy or 30 days' notice in the case of tenancies from month to month.
(3) A rule adopted by a landlord of a mobile home park must be in writing and must be given to each mobile home owner or tenant of a mobile home owner residing in the mobile home park and to each new resident upon arrival."
Renumber: subsequent sections

13. Page 11, lines 21 through 24.
Strike: section 4 in its entirety
Insert: "NEW SECTION. Section 5. Effective date. [This act] is effective 30 days after passage and approval."

-END-

# ROLL CALL VOTE

SENATE COMMITTEE Judiciary BILL NO. 245

DATE 3-26-93 TIME 12:45 A.M. P.M.

| NAME | YES | NO |
|---|---|---|
| Senator Yellowtail | | X |
| Senator Doherty | X | |
| Senator Brown | X | |
| Senator Crippen | X | |
| Senator Rye | | X |
| Senator Grosfield | | X |
| Senator Halligan | X | |
| Senator Harp | | X |
| Senator Towe | X | |
| Senator Bartlett | X | |
| Senator Blaylock | X | |
| Senator Franklin | | X |
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SECRETARY CHAIR

MOTION: BQP HB245 BCIAA carried

Amendments to House Bill No. 245
Third Reading Copy

Requested by Senator Towe
For the Committee on Judiciary

Prepared by Valencia Lane
March 24, 1993

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 11
DATE 3-26-93
BILL NO. HB245

1. Title, line 5.
Strike: "FIVE"

2. Title, line 8.
Strike: "SECTION"
Insert: "SECTIONS"
Following: "70-24-103"
Insert: "AND 70-24-311"

3. Page 5, lines 10 and 11.
Following: "rent" on line 10
Strike: "OR"
Insert: ","
Following: "CHARGES," on line 10
Strike: remainder of line 10 through "(2)" on line 11
Insert: "or common area maintenance fees as established in the rental agreement"

4. Page 5, line 12.
Following: line 11
Insert: "(b) late payment of rent, late charges, or common area maintenance fees as established in the rental agreement three or more times within a 12-month period if written notice is given by the landlord after each failure to pay, as required by 70-24-422;"
Renumber: subsequent subsections

5. Page 5, lines 12 and 13.
Following: "rule" on line 12
Strike: remainder of line 12 through "(3)" on line 13
Insert: "that creates an immediate threat to the health and safety of any resident of the mobile home park if the violation has not been remedied 24 hours after the violator is given written notice of the violation;

(d) three or more violations within a 12-month period of any combination of one or more mobile home park rules, the violation of which would have a significant adverse impact on the mobile home park or its residents and which are so designated;

(e) three or more violations within a 12-month period of the same rule;

(f) three or more violations of 70-24-321(1) within a 12-month period or any violation of 70-24-321(2),"
Renumber: subsequent subsections

6. Page 6, line 5.

Strike: "(4)"
Insert: "(2)"

7. Page 6, line 6 through page 9, line 18.
Strike: subsections (2) and (3) in their entirety
Renumber: subsequent subsection

8. Page 10, line 13.
Strike: "(4)(b)"
Insert: "(2)(b)"

9. Page 10, line 25.
Following: line 24
Insert: "(3) For purposes of calculating the total number of notices given within a 12-month period under subsection (1), only one notice per violation per month may be included in the calculation."

10. Page 11, line 16.
Following: line 15
Insert: "**Section 3.** Section 70-24-311, MCA, is amended to read:

"**70-24-311. Landlord authorized to adopt rules.** (1) A landlord may adopt a rule concerning the tenant's use and occupancy of the premises. A rule is enforceable against the tenant only if:

(a) its purpose is to promote the convenience, safety, or welfare of the occupants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally;

(b) it is reasonably related to the purpose for which it is adopted;

(c) it applies to all occupants in the premises in a fair manner;

(d) it is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform him of what he must or must not do to comply;

(e) it is not for the purpose of evading the obligations of the landlord; and

(f) the tenant has notice of it at the time he enters into the rental agreement or when it is adopted.

(2) If a rule is adopted after a tenant enters into a rental agreement that works a substantial modification of his bargain, it is not valid until 7 days after notice to the tenant in the case of a week to week tenancy or 30 days' notice in the case of tenancies from month to month.

(3) A rule adopted by a landlord of a mobile home park must be in writing and must be given to each mobile home owner or tenant of a mobile home owner residing in the mobile home park and to each new resident upon arrival."

{*Internal References to 70-24-311: x70-24-103*}"
Renumber: subsequent sections

11. Page 11, lines 21 through 24.
Strike: section 4 in its entirety

Amendments to House Bill No. 245
Third Reading Copy

Requested by Senator Towe
For the Committee on Judiciary

Prepared by Valencia Lane
March 24, 1993

1. Page 9, line 21.
Following: "use"
Insert: "or for a new mobile home park design for a legitimate business reason"

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 12
DATE 3-26-93
BILL NO. HB245

Amendments to House Bill No. 245
Third Reading Copy

Requested by Senator Bartlett
For the Committee on Judiciary

Prepared by Valencia Lane
March 25, 1993

1. Page 9, line 21.
Following: "to"
Strike: "some other use"
Insert: "a use that would decrease the number of or eliminate all mobile home park spaces"

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 13
DATE 3-26-93
BILL NO. HB245

Haep

Proposed Amendments to HB 245

March 23, 1993

1. Page 6.
Following: line 5
Insert: "(f) legitimate business reason of the landlord if the requirements of subsection (5) are met."

2. Page 11.
Following: line 15
Insert: "(5) A landlord may terminate the rental agreement of a tenant provided the landlord, by such termination, does not violate any provision of this statute, violate the provisions of any other statute of the state of Montana, and has a legitimate business reason. A landlord shall give the mobile home owner and a tenant of the mobile home owner a minimum of six (6) months' written notice of termination of the tenancy."

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 14
DATE 3-26-93
BILL NO. HB245